



Security Council

Sixty-third year

Provisional

5904th meeting

Wednesday, 4 June 2008, 10 a.m.

New York

President:	Mr. Khalilzad	(United States of America)
Members:	Belgium	Mr. Roelants de Stappers
	Burkina Faso	Mr. Tiendrébogo
	China	Ms. Chen Peijie
	Costa Rica	Mr. Weisleder
	Croatia	Mr. Jurica
	France	Mr. Lacroix
	Indonesia	Mr. Kleib
	Italy	Mr. Spatafora
	Libyan Arab Jamahiriya	Mr. Gouider
	Panama	Mr. Soler Torrijos
	Russian Federation	Mr. Churkin
	South Africa	Mr. Laher
	United Kingdom of Great Britain and Northern Ireland	Ms. Pierce
	Viet Nam	Mr. Hoang Chi Trung

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994

Letter dated 13 May 2008 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the Security Council (S/2008/326)

Letter dated 12 May 2008 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2008/322)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.



The meeting was called to order at 10.10 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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The President: I should like to inform the Council that I have received letters from the representatives of Rwanda, Serbia and Slovenia in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned States took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend invitations under rule 39 of its provisional rules of procedure to Judge Fausto Pocar,

President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991; Judge Dennis Byron, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994; Mr. Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

It is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Security Council have before them documents S/2008/326, containing the text of a letter dated 13 May 2008 from the President of the International Tribunal for the Former Yugoslavia, and S/2008/322, containing the text of a letter dated 12 May 2008 from the President of the International Criminal Tribunal for Rwanda.

I also wish to draw the attention of the members to photocopies of a letter dated 3 June 2008 from the Secretary-General addressed to the President of the Security Council, which will be issued as a document of the Council under the symbol S/2008/356.

At this meeting, the Security Council will hear briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the International Criminal Tribunal for Rwanda and the Prosecutors of the International Tribunals for the Former Yugoslavia and Rwanda.

I now give the floor to Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia.

Judge Pocar: I am honoured to present before the Security Council the ninth report of the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), in accordance with Security Council resolution 1534 (2004). Before making my

remarks, I want to express on behalf of the Tribunal our deep gratitude for the crucial support for our work that has been provided by the United States. As we come closer to fulfilling our mandate, and in a climate of Tribunal fatigue, we more than ever need the continued backing of your country, Sir, as well as that of other members of the Security Council, so that we can fully and successfully achieve our mission.

In my address to the Council today, I want to reflect on the profound significance of the International Tribunals' mandates and on what lies ahead for all of us who care about the future and the lasting strength of international justice.

Fifteen years ago, the Security Council changed the course of history by creating the first truly international criminal jurisdiction. Aside from its revolutionary character in political and legal terms, this decision was fundamental. In depth, it expressed the international community's commitment to the deeply held and universal values of human dignity, justice and the rule of law.

We — and by that I mean not only the International Tribunal but also the international community that established it — are now at a crossroads. As in 1993, the decisions we make now will be crucial to the enduring success of international criminal justice.

Over the past 15 years, the Tribunal's jurisprudence has contributed to the exponential development of international criminal law and has in fact led to the creation of an entirely new body of international law, namely, international criminal procedure. Our jurisprudence is now widely used by other criminal jurisdictions, international, mixed and domestic. We have trained an entire generation of lawyers and judicial staff and developed new standards, practice and methodologies for the management of international criminal jurisdictions and of complex war crimes cases.

During these years, we also embarked on a long-haul effort to streamline our procedures, with a view to completing our mandate and ensuring compliance with the right of the accused to a fair and expeditious trial, one of the most fundamental components of due process. The result is that we are now able to simultaneously conduct eight trials involving 28 accused, the highest number since the Tribunal's inception. Seven appeals from judgement are pending,

while only six accused are awaiting trial, and the trials of three of these accused will start in July and another one in October. Thus, except for the two accused Tolimir and Djordjevic, who were arrested in 2007 only, all of our trials will have commenced before the end of the year.

All other cases have been completed. Out of the 161 individuals indicted, 113 have had their proceedings terminated, and we expect that, by the end of 2009, all but three of the International Tribunal's pending trials will be completed. The remaining cases include those of the two accused who were arrested only last year. Had these fugitives been arrested at an earlier time, their cases could have been joined to the ongoing multi-accused trials, and we would have had almost all of our cases completed by 2009.

I should add that, while there is much that we have accomplished to expedite our cases, procedures can always be improved further. As Council members know, in the past few years we have adopted and implemented numerous measures in that regard, which are presented in the report. In order to carefully assess the impact of these measures and consider new creative approaches for the expeditious conduct of trial and appeal proceedings, I decided last April to reconstitute the Working Groups on Speeding up Trials and on Speeding up Appeals. We are also very grateful to the Council for the adoption of resolution 1800 (2008), which authorizes the assignment of up to four additional *ad litem* judges for the period until December 2008. This measure allowed us to commence new trials and make maximum use of permanent judges as well. *Ad litem* judges have taken on an onerous workload to ensure the expeditious conclusion of our mandate, and they make an outstanding contribution to the Tribunal's mission.

However, while we have clearly been continuing to make headway, and our achievement has surpassed by far that of any other international or hybrid court, I must emphasize that a number of challenges remain, and we clearly need the Council's help and support in order to address them. One of these hurdles concerns the status and benefits of the staff and judges of the Tribunal. Once again, I must state the obvious. Without these highly skilled and experienced people and their continued commitment to our institution, it will be far more difficult for the Tribunal to successfully fulfil its mandate. At this juncture, we need additional support from the Security Council and States Members of the

United Nations in developing other incentives to retain our best staff until we complete our work.

A positive resolution of the legal entitlement of the judges to receive full parity with the judges of the International Court of Justice is also called for. That principle is provided for under our Statute, which was adopted by the Council, and the independent consultant's study commissioned by the Secretary-General recommended a rectification of the current situation. I therefore again ask the Council to actively support measures to ensure the retention of our best staff and to address the inequality suffered by judges in the assessment of their pension benefits.

The Council will remember that, when the Tribunal was established in 1993, the conflict in the former Yugoslavia was still raging. The involvement of the international community in the resolution of the conflict and the decision to create the International Tribunal remain one of the shining examples of the international community's coming together and acting decisively. Too often, however, interest wanes once a country or region is not in the headlines anymore, and as years go by, political and financial support from international actors dries up. That often proves to be a fatal miscalculation and jeopardizes the slow and fragile progress accomplished towards reconciliation and the development of a society based on the rule of law.

That is the scenario that we are currently facing in the former Yugoslavia. It is undeniable that the fact that the Tribunal has been able to refer 13 accused to domestic courts in the region is a clear sign of the progress achieved since 1993. Currently, 10 accused have been transferred to Bosnia and Herzegovina, two accused have been transferred to the authorities of Croatia, and one accused has been transferred to Serbia. The War Crimes Section of the Court of Bosnia and Herzegovina has completed two cases, one is at the appeals stage and three trials are ongoing. At this point, we are still assessing the quality and effectiveness of those proceedings. We have also adopted amendments to our Rules of Procedure and Evidence in order to reinforce our partnership with domestic courts, in particular the courts in the former Yugoslavia. Rule 75(H) of the Rules now allows judges and parties in other jurisdictions to directly petition the International Tribunal for access to confidential material. That is another demonstration of our commitment to ensuring that those courts have adequate tools at their disposal

to pursue justice for the victims of serious international crimes.

I must point out, however, that such progress remains extremely fragile. Cooperation between States of the region in the investigation and prosecution of alleged war criminals, such as the extradition of nationals who are alleged war criminals to another jurisdiction, is still problematic. On my visit to Bosnia and Herzegovina a few weeks ago, I saw for myself the extent of what remains to be done. There are still extreme needs with respect to detention facilities and the training of prison and police officers, for instance. I do not have to highlight the importance of enforcing sentences in a criminal justice system. Yet, less than two months after being convicted of the systematic rape, torture and enslavement of women and underage girls and sentenced to 20 years imprisonment, Radovan Stankovic, whose case was referred by the Tribunal to Bosnia and Herzegovina pursuant to Rule 11 bis, was able to escape from the Foča prison. A year later, he has not yet been apprehended. That is not only a stain on the reputation of the authorities of the Republika Srpska responsible; it also shows the scale of the problems we are facing. I continue to be gravely concerned about the lack of progress made by the relevant authorities in apprehending Stankovic and in prosecuting those who assisted in his escape at all levels. I also must convey to the Council that there is a real urgency in the need to improve the security of prison facilities in Bosnia and Herzegovina and throughout the region.

Finally, I take this opportunity to raise with the Council the issue of the presence of international staff in the State Court and Prosecutor's Office of Bosnia and Herzegovina. According to current arrangements, the mandate of that international staff will terminate at the end of 2009. During my visit to Bosnia and Herzegovina, various actors voiced concern about their impending departure, including victims' groups, which indicated that it would have a detrimental impact on the willingness of witnesses to testify. I therefore urge the international community to support an extension of the mandates of the international members of the State Court and of the Prosecutor's Office of Bosnia and Herzegovina.

As I have often recalled, the Tribunal was never expected to try all persons responsible for the atrocities committed during the conflict, and there are in fact thousands of war crimes cases pending before and

being processed by the courts of Bosnia and Herzegovina alone. In that perspective, one should in fact view the so-called completion strategy as a strategy devised to allow the continuation by domestic actors of those activities that were initiated by the ICTY, as mandated by the Security Council.

In other words, the international community's failure to support the institutions that are key to the development of the rule of law in the region will seriously undermine the Tribunal's legacy. It will also in effect diminish the impact of Member States' significant financial investment in international justice made through their contributions to the budget of the Tribunal. I therefore urge the international community to bolster its support for criminal justice institutions in the region.

Such efforts remain crucial to the development of a society based on the rule of law in the former Yugoslavia and to ensuring a return on the significant investment that the international community has made thus far.

One of the fundamental values reflected in the international community's decision to create the International Tribunal was the quest for justice and the fight against impunity. In that respect, I must once again reiterate that we will not have fully achieved our goal of rendering justice if the four remaining fugitives — Karadzic, Mladic, Zupljanin and Hadzic — are not arrested. The International Tribunal shall not close its doors before all of those fugitives are tried, and the Security Council should make clear that the trial of those fugitives by the international community does not hinge upon the International Tribunal's proposed completion strategy dates.

I therefore urge the international community to honour its responsibility to cooperate with the Tribunal and find those fugitives so that they will face justice. That is a legal obligation under the Tribunal's statute, which binds all States Members of the United Nations. It reflects the principle embraced by the Security Council 15 years ago that the impunity of those responsible for the most serious international crimes cannot be tolerated. I must also emphasize that the duty to cooperate goes well beyond the arrest of the remaining fugitives. It also entails the provision of assistance in all aspects of ongoing proceedings before the Tribunal, and there have been recent cases in which States have failed to fulfil that obligation. I must, in

that respect, express my disappointment at the failure of Serbia to provide adequate and diligent assistance in serving a summons for a key witness in one of our ongoing trials.

Allow me finally to turn to the initiatives that we are taking with respect to our legacy and to ongoing discussions on residual mechanisms. As regards the latter, we submitted our final report on residual mechanisms in September 2007. Since then, we have met with the Security Council working group and have provided several clarifications in response to questions from working group members. We are very much looking forward to further discussions with a view to ensuring the adoption of the most effective and appropriate residual mechanisms.

Since my last presentation before the Council, we have also initiated a number of projects in collaboration with like-minded institutions. The objective pursued is to ensure that our methods, our practices and our case law will be fully accessible to future international courts and for the transfer of war crimes cases to domestic jurisdictions. With the assistance of the United Nations Interregional Crime and Justice Research Institute, we are putting together a compilation of our best practices that will cover all stages of the criminal process from investigations to the enforcement of sentences. We are also, in conjunction with the Organization for Security and Cooperation in Europe, assessing the impact of our outreach activities and training programmes with a view to identifying best practices and what remains to be achieved to guarantee the Tribunal's lasting impact on the work of domestic courts in the region of the former Yugoslavia. Our goal is to ensure that the legacy of the International Tribunal will be secured not only through proceedings carried out by domestic courts in the region, but worldwide by the courts and in the jurisprudence of all Member States. That is an integral part of the idea that, while the institution of the ICTY in its narrow understanding is completing its work, our mandate will in fact be continued by domestic actors, in particular in the former Yugoslavia.

In 1993, the proposal to establish an international criminal jurisdiction to enforce international criminal law would have remained mere wishful legal thinking without the decisiveness of the Council. By the same token, we will not be able to fully accomplish our mission without the Council's continued support. The success of the Tribunal's work is not only crucial for

peace and security in the former Yugoslavia; it will also set the stage for all present and future international criminal justice endeavours. I ask members to help ensure that the Tribunal will be provided with all support necessary to successfully fulfil its mandate and that they intensify their support to the region of the former Yugoslavia so that the justice systems of the countries concerned can continue the work started by the Tribunal. The Council's continued support to the domestic judiciaries is crucial to ensuring that the rule of law is embedded in those societies.

The President: I thank Judge Pocar for his briefing.

I now give the floor to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda.

Judge Byron: I, too, am greatly honoured to present to the members of the Security Council the ninth report on the completion strategy of the International Criminal Tribunal for Rwanda (ICTR).

In 2003, the Security Council called on the Tribunal to

"take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008, and to complete all work in 2010" (*resolution 1503 (2003), para. 7*).

Since then, the Tribunal has substantially complied with its completion strategy while upholding trial fairness and the rights of the accused.

Of the 92 indictments issued by the Prosecutor, 41 have been disposed of. Of the remaining 51, four have been earmarked for referral and 13 accused are still at large. Despite the recent additional workload in connection with five accused, the evidence phase of all but four remaining cases will be completed by the end of 2008, with judgements expected at the latest in 2009.

The recent additional workload in connection with five accused includes an indictment for contempt of court, an accused whose referral to the Netherlands was revoked, and three accused who were recently arrested.

Both the contempt and the case for which referral was revoked have been scheduled for trial and judgement delivery in 2008. Because the three newly

arrested are considered to be high-level accused, their trials ought to take place at the Tribunal. In view of the current workload and the occupancy rate of courtrooms, the scheduling of those three new single-accused cases will necessarily extend into next year. As a result, the evidence phase in four cases — Karemera and the three recently arrested fugitives — will spill over into 2009.

We have projected that seven permanent and eight ad litem judges could progressively dispose of those remaining cases during 2009. Two permanent and one ad litem judges will complete their assigned cases and resign by November 2008. No arrangements for their replacement are considered necessary due to the current and anticipated workload.

As members can see, those new developments will require some adjustment to the terms of service of the judges. It is my intention very soon to submit to the Presidents of the Council and the General Assembly a request for consideration of that matter.

In a few minutes, the Prosecutor of the ICTR will address this Council and request it to urge Member States to secure the arrest of the 13 remaining fugitives as soon as possible. The speed and efficiency with which that request will be executed will have an impact on the Tribunal's work. Another element that may have an impact on our work is the outcome of the five pending requests for referral that have not been put on our judicial calendar. Although a trial chamber rendered a decision on one of them last week, if an appeal is lodged, it will take three to four months before the Appeals Chamber will issue its ruling.

Maintaining high performance standards while achieving the goals set by the completion strategy does not come easily. There is a high turnover of staff, which requires constant training and reorganization. Decisions from the relevant United Nations organs in support of the management and maintenance of our resources are instrumental to the Tribunal's completion strategy. Once again, I ask the Council to authorize the Secretary-General to take all reasonable measures to ensure that the Tribunal is able to retain its experienced staff in order to achieve its mandate.

While on that subject, it would be remiss of me not to pay special tribute to the judges. Their commitment to the ideals of the Tribunal and their dedicated service have been exemplary and are essential to the attainment of our mandate. In

particular, I would like to acknowledge the *ad litem* judges who, despite the differences in their terms of engagement, have wholeheartedly undertaken the same workload and served for a similar duration as permanent judges.

During the reporting period, the Tribunal has benefited from the cooperation of many States. Rwanda in particular has continued to provide support in facilitating the presence of witnesses in Arusha and providing other essential services for the effective and expeditious management of the trials. The United Republic of Tanzania provided assistance in securing the arrest of Callixte Nzabonimana earlier this year. It must, however, be reported that the relocation of two acquitted persons has not yet been resolved, despite the strenuous efforts deployed by the Registrar to find a country of residence for them. That issue, as well as that of the relocation of those convicted persons who will complete the service of sentence, is increasingly becoming crucial as the Tribunal moves towards its completion. On behalf of the Tribunal, I respectfully call upon Member States to provide support and assistance in finding and imposing sustainable solutions.

The Tribunal has continued to work with the International Tribunal for the Former Yugoslavia on the development of arrangements for the performance of essential activities after closure of the Tribunals. It has conducted internal and external consultations with various stakeholders. The work of the Committee on Archives is progressing and is expected to produce recommendations shortly. The Tribunal has also continued to actively contribute to capacity-building in Rwanda and has delivered programmes that have benefited the judicial sector, civil society and academic institutions.

On behalf of the Tribunal, I would like to thank the Security Council, the Secretariat and the Member States for their steadfast support to the work of the Tribunal. The continued assistance of all Member States is necessary for the Tribunal to accomplish its mandate to bring justice and restore peace and security to Rwanda and the Great Lakes region. Its results will set an example and demonstrate that States are determined to fight against impunity for the most serious international crimes.

The President: I thank Judge Byron for his briefing.

I now give the floor to Mr. Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia.

Mr. Brammertz: I am honoured to appear before the Security Council again, for the first time in my capacity as Prosecutor of the International Tribunal for the Former Yugoslavia. I will brief the Council on the progress made in the implementation of the Tribunal's completion strategy since my predecessor's last report.

At the outset, I would like to say that it is a great privilege for me to have been entrusted with the mandate of Prosecutor of the International Tribunal, an institution which, despite great odds, has succeeded in bringing to justice many of those who bear the greatest responsibility for atrocities committed in the former Yugoslavia. That success is the result of the combined efforts of my predecessors, the Tribunal's judges, its dedicated staff and the courage of witnesses who have come forward to testify. Still, none of that would have been possible without the assistance of States, international organizations and the endless support of those active in civil society.

I will now address developments in the following areas: the ongoing and pending judicial proceedings, interaction with prosecutors in the region, and the cooperation of States.

The Office of the Prosecutor is fully committed to completing all trials and appeals in accordance with its mandate. Of the 28 individuals on trial, only eight are in the prosecution phase of the case. There have been no arrests during the reporting period and four accused are still at large.

Over the past six months, the Office of the Prosecutor has taken a number of steps to reduce the time necessary to present the prosecution case in ongoing and upcoming trials. We are firmly engaged in finding ways to expedite proceedings without diminishing the prosecution's case. My Office is actively and constructively working with the judges in exploring ways to speed up proceedings. We have substantially reduced the length of time in our cases by using more written evidence instead of live witness testimony. We also continue to look to improve the transition from pre-trial to trial and to have all issues decided pre-trial except those involving live witness testimony. The objective of those measures is to achieve greater efficiency in the presentation of

necessary evidence while proving the essential nature and scope of each accused's responsibility.

I am, however, greatly concerned with regard to the problems of witness protection, which directly affect our ability to present a case in an effective and timely manner. Interference with witnesses, particularly in the form of witness intimidation, has become increasingly frequent and problematic. Witnesses have been intimidated and threatened and, as a result, refused to testify or reversed their testimony. Where appropriate, we have addressed those concerns together with the Registry and Chambers. We have also conducted formal investigations, some of which have resulted in indictments charging individuals with contempt of the Tribunal. Unfortunately, despite those efforts, the problems are not abating.

That is why I ask States in which witnesses reside to assist the International Tribunal by ensuring that necessary measures are taken to avoid any witness interference. International trials will succeed only if witnesses are protected from intimidation and threats.

As the International Tribunal nears the completion of its mandate, cooperation between my Office and national judicial and prosecution authorities has become even more important and is now a focal point of our activities. Their roles are crucial to the strengthening of justice in the former Yugoslavia.

With the assistance of the Organization for Security and Cooperation in Europe (OSCE), we continue to monitor all cases transferred pursuant to our Rules of Procedure and Evidence. At the same time, we remain actively involved in transferring investigation files and other material, including evidence that is requested by national prosecutors. We work closely with national judicial and prosecution authorities from the former Yugoslavia and assist them so that they can continue to effectively prosecute war crimes cases.

Since I took office, I have had several fruitful meetings with State and war crimes prosecutors from the region. Last month I attended a successful conference in Croatia with prosecutors from the region, which resulted in a renewed commitment from all participants to intensify national war crimes prosecutions and to strengthen cooperation among themselves.

I am determined to reinforce professional ties with national prosecutors and develop true partnerships. I will also continue to explore further methods of cooperation, such as engaging prosecutors and experts from the region and our office to facilitate the sharing of expertise and to provide practical hands on training. I kindly ask the international community to support such initiatives.

International support to national courts in the former Yugoslavia will remain crucial in the coming months and years. In this respect, I am very concerned that, as the President of the Tribunal has already mentioned, future funding for the War Crimes Department in the Office of the Prosecutor of Bosnia and Herzegovina may be reduced and that international prosecutors may leave, thereby jeopardizing the work of the State court. I hope funds will be made available, as I believe that the role of the War Crimes Prosecutor and Chamber is crucial in strengthening Bosnia and Herzegovina's still-fragile justice system.

In order to succeed in fulfilling our mandate, we still rely heavily on cooperation from the States of the former Yugoslavia and the support of the international community. Since I took office, I have repeatedly called upon those States to fully cooperate with my Office. I have specifically requested access to archives and documents and the arrest and transfer of the remaining fugitives.

Although Croatia has, in the past six months, made available certain archival materials, a number of important requests for key documents required for ongoing trials are still pending. As these trials are in progress, it is crucial that the requested documents be made available immediately.

Bosnia and Herzegovina has generally responded in a satisfactory way to requests for assistance. We would, however, like to encourage the authorities in Bosnia and Herzegovina to adopt a more proactive approach against those helping the fugitives evade justice.

Serbia has provided adequate responses to number of requests for assistance. However, significant obstacles remain in relation to access to some key archives and documents for ongoing trials and those that are about to begin in the very near future. In the coming weeks, teams from my Office will meet again with senior officials in Belgrade to continue our efforts to obtain these documents.

The arrest of fugitives remains a key challenge. We strongly believe that the remaining fugitives — Ratko Mladic, Radovan Karadzic, Stojan Zupljanin and Goran Hadzic — are within reach of the authorities in Serbia and that the Serbian authorities can do more to locate and arrest them. With the exception of a genuine but, alas, failed attempt to arrest Mr. Zupljanin, there has been no notable progress in this critical area of cooperation during the past six months. One of the reasons given by the authorities for this lack of cooperation is the political uncertainty in which Serbia has found itself since the beginning of the year. It is my hope that the new Government will empower the security services and the Office of the War Crimes Prosecutor to search for, arrest and transfer the remaining fugitives.

I ask the Council to endorse my call for international support and full cooperation from the international community and from the States of the former Yugoslavia. This message is important, especially as we near the completion of ongoing trials.

Six months ago, I joined an institution that is well on its way to fulfilling its mandate. As an outside observer, I was impressed by the International Tribunal's achievements. Now that I am in-post, I witness every day the commitment and dedication of our staff members. I therefore ask the Council to support initiatives and measures to retain the expert staff the Tribunal needs in order to conclude its work.

We are committed to fulfil our mandate. At the same time, I cannot think of a situation in which the Tribunal, having been established to try those most responsible for atrocious crimes, will close its doors without bringing to justice all remaining fugitives. During my trip to Bosnia and Herzegovina last March, I met with a number of victims' associations. After all these years, their demands for justice are unwavering — and unanswered in respect of the fugitives. I was impressed by the courage of the survivors and the clarity of their message that the accused must be tried by the International Tribunal. They have never given up, and neither can we. We owe them the justice that was promised 15 years ago, when the Tribunal was set up.

I thank the Council for its support to the Office of the Prosecutor. We continue to rely on it.

The President: I thank Prosecutor Brammertz for his briefing.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: This year is an important landmark in the completion strategy of the International Criminal Tribunal for Rwanda (ICTR), having regard to resolution 1503 (2003), adopted by the Security Council.

Although a significant number of accused persons will have been brought to account before the ICTR by the end of the year for their role in the commission of serious violations of international humanitarian law in Rwanda, and although many of the cases currently on trial will have been concluded, it is now evident that there will still be pending trial activity at the ICTR by the end of 2008.

This situation has arisen essentially because of the three new arrests, of Callixte Nzabonimana, Dominique Ntawukuriyayo and Augustin Ngibabwe, respectively effected in the Democratic Republic of the Congo, in France and in Germany. All these three accused are considered of such a high level as to require trial at the ICTR rather than transfer to a national jurisdiction. I join the President of the ICTR, Judge Byron, in assuring the Council that the tribunal has indeed spared no effort over the years in taking all possible measures to meet the target date set by it in resolution 1503 (2003) and that, due to these new circumstances, an extension of the trial mandate of the ICTR to 2009 needs to be granted.

Much has been accomplished in the past decade in combating impunity by bringing to account before the tribunals those persons suspected of committing these serious violations. The gains of the past and the need for a proper completion would be best sustained by permitting the ICTR to continue with trial activity beyond the end of 2008 in order to conclude pending cases.

Although the Trial Chamber has recently rejected one of the five requests by the Prosecutor for the referral of the case of an indictee to Rwanda for trial — that was in the case of *Prosecutor vs. Yussuf Munyakazi* — the final decision on these requests may well come only later in the year, as the Prosecutor has decided to file an appeal against this decision with the Appeals Chamber of the ICTR. In the event that referral of these cases to Rwanda turns out to be impossible, these five cases would constitute additional

work in 2009 for the ICTR, given that so far no country other than Rwanda has indicated a desire to receive any of these cases.

The cases of the fugitive indictees would pose a special problem as our rules do not permit trials in absentia. On the other hand, an acceptable national jurisdiction cannot so far be found to receive these cases.

The Tracking Team of the Office of the Prosecutor continues to prioritize its activities and intensify its efforts to secure the arrests of more fugitives. The number of fugitives currently stands at 13, including Félicien Kabuga and a number of other persons who, because of their status or level of involvement in the genocide, have been earmarked for trial in the ICTR. With the cooperation of Member States, we hope to be able to effect more arrests of such figures in the months that lie ahead.

The case of Félicien Kabuga has been a constant issue in the Council. Indeed, in resolution 1503 (2003), the Council called on all States — but especially Kenya, the Democratic Republic of the Congo and the Congo — to intensify cooperation with and render all necessary assistance to the ICTR in connection with efforts to bring Félicien Kabuga and all other such indictees to the ICTR.

For the past three years, my Office has been engaged with the Government of Kenya in the Kabuga case, largely through the joint Kenya-ICTR task force. The task force has now submitted three reports to the ICTR and to the Government of Kenya. Those reports indicate that there is documentary evidence of Kabuga's entry into Kenya in 1994 and of the grant of a resident visa to him, as well as a business permit in 1995. Since then, there have been several reported sightings of him in Kenya. On two specific occasions, in 1997 and 2005, efforts to arrest him in Kenya were thwarted. There is no record or other indication of his departure from the territory of Kenya.

According to the task force, Kabuga is also reported to have interests in property and businesses in Kenya, either in his own name or jointly with family members or with business associates. There is evidence that he holds, or has held, accounts with banks in Kenya. His involvement and activities in Kenya are therefore very well documented.

Although in May 2008, following my request to the Government of Kenya for the implementation of the recommendations of the task force, the Government obtained a High Court order freezing one such property belonging to Kabuga, nothing else appears to have been done for the implementation of the rest of the recommendations of the task force and for the discharge of Kenya's responsibility in this case.

Kenya must now proceed to maintain an active search for the fugitive within its territory, with a view to arresting him and transferring him to the ICTR or establishing his departure from its territory. Kenya should take steps, as other Member States have done, to freeze the bank accounts of the fugitive that may still be operational and to provide a report on all such accounts and others that may have been closed. It should also undertake serious and conclusive investigations into the reported interests of Kabuga in the businesses and companies specified in the report and, if those are confirmed, take the necessary measures to freeze those assets as well. In short, Kenya has legal obligations of cooperation that the Security Council should request it to fulfil urgently. As the President indicated at the beginning of this meeting, members of the Council have before them a letter (S/2008/356) in which the Secretary-General draws this matter to their attention. Much of the past three years has been devoted to investigations of Kabuga's activities and his involvement with the country. The implementation of the recommendations of the joint task force is now overdue.

A number of fugitives, including some of the high-level indictees earmarked for trial at the ICTR, have also been located in the Democratic Republic of the Congo by the Tracking Team of the Office of the Prosecutor. The ICTR generally and its Tracking Team in particular have not had the benefit of much cooperation from the authorities in the Democratic Republic of the Congo in effecting the arrest of those fugitives. Last week, however, the Government of the Democratic Republic of the Congo indicated its readiness to participate in a tripartite meeting with the United Nations Organization Mission in the Democratic Republic of the Congo and the ICTR to discuss this matter. We welcome that development and look forward to the meeting proposed for later this month. Nonetheless, I consider it necessary for the Security Council to reiterate to the Democratic

Republic of the Congo its call for cooperation with the ICTR.

The Office of the Prosecutor continues to receive and to respond to requests for mutual legal assistance from Member States that are investigating, prosecuting or handling extradition requests for fugitives wanted for international crimes committed in Rwanda. Many such States are now conducting those activities in their respective countries, with a view to extraditing them to Rwanda or prosecuting them nationally. The Office of the Prosecutor has the largest electronic database of evidence on the crimes committed in Rwanda. That database should be an invaluable tool to national investigating and prosecuting authorities of Member States, now as well as after the closure of the Tribunal, for as long as those fugitives remain at large.

Consistent with its mandate and its obligation to fight the culture of impunity, the Office of the Prosecutor will host a forum later this year for selected national prosecuting authorities to discuss ways of enhancing cooperation with them and ensuring their continued access to our database, both now and after the closure of the Tribunal. As part of our consultative process, early next year, we shall also host the fifth annual colloquium for international prosecutors, which will focus on the challenges of completion and the orderly and proper closure of the ad hoc Tribunals.

Over the past year, we have also been actively involved in capacity-building initiatives at the request of the National Prosecution Service in Rwanda. With generous funding from the European Union and the World Bank, the Office of the Prosecutor has held a series of training seminars and workshops for Rwandan prosecutors, investigators and information managers on best practices in the investigation and prosecution of international crimes, as well as on information and evidence management.

In my last report to the Council, I indicated that there had been some progress in the investigation of allegations against the members of the Rwanda Patriotic Front (RPF). Rwanda has cooperated with my Office in that process, as requested by the Council. Together, we have been able to establish a *prima facie* case that, on 5 June 1994, RPF soldiers killed 13 clergymen, including five Roman Catholic bishops and two other civilians, at the Kabgayi Parish in Gitarama. Some of the perpetrators of that crime are reported to have died, but others are now serving within the

Rwandan Army. Following inquiries, the Rwanda Prosecutor General communicated to me his decision to shortly indict and prosecute four serving senior military officers in the Rwandan Army for murder and complicity to murder as war crimes in connection with that incident.

As the Council knows, Rwanda shares concurrent jurisdiction with the ICTR over such offences. I have therefore decided to hold in abeyance further action on my part, on the clear understanding that any such prosecutions in and by Rwanda should be effective, expeditious, fair and open to the public. My Office will also monitor those proceedings. The prosecutions in Rwanda will of course be without prejudice to the primacy of the ICTR's jurisdiction over those crimes. I hope that the prosecutions will be conducted by Rwanda in a manner that will effectively contribute to reconciliation in that country.

The anticipated reduction in the workload of the Tribunal by the end of 2008 is reflected in the process of downsizing through the reduction of resources, both human and material. That process started within the Office of the Prosecutor towards the end of 2007 with the abolition of a number of posts within the Investigations Division in Kigali. It is expected to continue and intensify in the course of the year. It is a process that is likely to be a difficult one emotionally and in many other respects, both for the staff concerned and for the ICTR. We shall do our utmost to manage the process fairly and compassionately. The closure of the Tribunals will create a large pool of well-versed staff, experienced in the investigation and prosecution of crime, whom I believe the United Nations can rely on and should do its utmost to retain and utilize in other activities.

I would like to thank the members of the Council, the Secretary-General and the Secretariat, as well as Member States, for their support to, and cooperation with, the ICTR.

The President: I thank Prosecutor Jallow for his briefing.

I shall now give the floor to the members of the Council.

Mr. Gouider (Libyan Arab Jamahiriya) (*spoke in Arabic*): At the outset, I should like to welcome and thank the Presidents of the two Tribunals, Judges Pocar and Byron, and the Prosecutors, Mr. Brammertz and

Mr. Jallow, not only for their comprehensive briefings to us but also for the outstanding work they and their staff have carried out.

We know very well that, in 2003 and 2004, the Security Council determined the time frame for the completion strategy for the two Tribunals. It called for a commitment to this framework, urged States to cooperate with the two International Tribunals and underscored the development of the judicial capacities of the national jurisdictions concerned.

The assessments before us, and particularly the valuable briefings that we have heard today, testify to the evident progress made in implementing what has been decided, particularly the accomplishments of the Tribunals in the many tasks involved in the implementation of their completion strategies. There have been numerous acquittals, convictions and appeals, and there are many ongoing trials in which judgement has yet to be delivered.

Despite this progress, the inability to arrest some of the fugitive indictees and the resulting impunity are a source of concern and preoccupation to us. Yet this unfortunate reality, for which we see no end, cannot be a reason for not implementing the completion strategies as expeditiously as possible, within the prescribed time frames. Such implementation requires, in addition to the efforts of the two Tribunals and their staff, the continued provision of any financial and human resources support that the two Tribunals require to complete their work.

In our opinion, this implementation would be facilitated if as many possible pending cases as possible are referred to courts of national jurisdiction, once those courts' commitment to the principles and procedures of fair trials has been verified. Such an approach would definitely reduce the volume of work of the two Tribunals. But every effort must be made to observe the principle of equality, uphold the rule of law in the concerned States and ensure the protection of archives whose importance in the history of these States and their ongoing reconciliation processes is even greater than that of the archives of ordinary judicial proceedings.

Circumstances have changed since the establishment of the two Tribunals as non-permanent jurisdictions at the end of the last century. Judicial institutions and legislation have been developed in States where war crimes have been committed, and

where the evidence and witnesses are available, which would allow these States to deal with pending cases with the assistance of the two Tribunals within the framework of their completion strategies and with the support of the international community.

Our keen interest in the expeditious implementation of the completion strategies stems from our desire to decide at an early date on the legacies of the two Tribunals and the residual mechanisms, once the completion strategies are over. Ambassador Verbeke's statement during Council consultations last month dealt with the various aspects of this issue. We have nothing to add to it today, except to voice our appreciation for the impressive work accomplished by the two Tribunals, their respective Presidents and the Working Group of the Security Council.

Mr. Weisleder (Costa Rica) (*spoke in Spanish*): I wish to start by thanking the President for having convened this important meeting. I would like to state that we are happy to see here today Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR). We would also like to welcome Mr. Serge Brammertz, who is reporting to the Council for the first time in his new post, and Mr. Hassan Bubacar Jallow, both of whom are Prosecutors of these Tribunals.

Costa Rica commends the highly informative and detailed substance of the briefings on the status of progress with respect to the completion strategies, in accordance with resolutions 1503 (2003) and 1534 (2004). We were glad to hear from the representatives of the two Tribunals that the strategies are on track to meet the deadlines. That being said, we also noted the elements that, in the opinion of the Presidents, may have delayed some of the trials.

At this time, as we get closer to the deadlines established by the Council, my delegation would like to point out that it is absolutely imperative that the residual mechanisms which the Security Council identifies respect the fundamental rights of the accused, for example, the provisions on the review of sentences and a system that allows for the monitoring of the victim and witness protection programmes; and it is vital that the justice system continue to be fair, expeditious and effective.

Costa Rica calls on the States concerned to facilitate the work of the Tribunals. We would urge the international community to step up its cooperation with the International Tribunals. That means, in particular, providing information to identify the whereabouts of fugitives, in accordance with the reports. In the case of the International Criminal Tribunal for the Former Yugoslavia, there are still four fugitives, including Radovan Karadzic and Ratko Mladic. With regard to the International Criminal Tribunal for Rwanda presumed, there are still 13 persons who are sought, among them Félicien Kabuga.

The most cruel and inhuman of crimes, such as genocide, war crimes and crimes against humanity, should not go unpunished. Costa Rica urges the international community to provide all the information at their disposal in order to gather enough data to locate the fugitives from both Tribunals and bring them before international justice as soon as possible.

We are, of course, committed to working within the Council and the United Nations as a whole in order to improve the structural and institutional conditions that have been mentioned as factors that contribute to creating the climate of violence and intolerance in which those crimes, which are unjustified from any point of view, take place.

Costa Rica would like to conclude by recalling that in July the International Criminal Court will be celebrating the tenth anniversary of the Rome Statute, which established it. For that reason, my delegation would once again like to call for efforts to strengthen our shared sense of justice, and we urge States to ratify the Rome Statute and join the 106 States that have already done so. Through the universal ratification of the Statute and acceptance of complementary jurisdiction, we will continue to ensure that individual perpetrators of genocide, crimes against humanity and war crimes will never again enjoy impunity.

Ms. Chen Peijie (China) (*spoke in Chinese*): Allow me to begin by thanking President Pocar, Prosecutor Brammertz, President Byron and Prosecutor Jallow for their respective briefings on the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). We welcome them to New York. In particular, we welcome Mr. Brammertz, who is participating in a Council meeting for the first time in his capacity as Prosecutor of the ICTY.

We have taken note of the continuing progress in the work of the two Tribunals, and we recognize their efforts towards implementing the completion strategies. As the completion strategy deadlines are drawing near, we expect the Tribunals to make a greater effort to intensify their work all areas. In that connection, I wish to elaborate on the following points.

First, since the introduction of the completion strategies, the Tribunals have been working hard to improve their methods of work and corresponding working procedures in order to speed up progress. We are already fully cognizant of that, and we hope that they will build on that foundation and continue to explore the possibility and feasibility of improving their working methods and making full use of the available time, space and human resources with a view to conducting highly efficient trials and avoiding, as best they can, any kind of delay, so as to bring the cases to closure on schedule.

Secondly, in recent years, the Tribunals have been treating the referral of cases to countries in their respective regions as one of the core elements of the completion strategy. We hope that they will continue to give the relevant regional countries greater confidence and more opportunities, step up cooperation with their judicial organs and try their best to expand cooperation in that area. They should encourage and support new approaches to referrals and to the transfer of fugitives. We appeal to all countries concerned make efforts to facilitate the maximum number possible of referrals of cases from the Tribunals in a systematic and expeditious manner.

Thirdly, a study of the Tribunal's legacy and residual responsibilities is becoming an increasingly pressing issue. Since the Tribunals' submission of their September 2007 reports, they have, in the first half of this year, at the request of the Council's informal working group on the Tribunals, furnished opinions on these relevant questions on many occasions. We recognize their active participation in the study of these issues.

Meanwhile, we also believe that the question of legacy and residual responsibilities should be studied and addressed, using an objective and realistic approach. In that process, it would be inappropriate to avoid addressing existing problems and the degree of difficulty in the work of the Tribunals, or on the other hand to exaggerate the difficulty of the problems

related to their work in terms of workload. At the same time, it would also be inappropriate to prejudge any possible solution. It is therefore imperative to observe the timetables for the completion strategy and prudently seek feasible, economical, appropriate and sound solutions.

We have consistently believed that the principles and timetables defined by the Security Council should be observed in earnest. The two Tribunals should continue to work to that end. In the second half of this year, we expect the Tribunals to take bigger steps towards implementing their completion strategies and to share with us the relevant information in their year-end reports. We also appeal to the countries concerned to continue to intensify their cooperation with the Tribunals and, through joint efforts, thus realize our common goals.

Mr. Churkin (Russian Federation) (*spoke in Russian*): Allow me first of all to thank the leadership of both Tribunals for their briefings and for the reports submitted to the Security Council on the implementation of the completion strategies for the work of those two judicial bodies. Unfortunately, the information to be found in the reports is cause for serious concern.

The Tribunals, in essence, state their inability to implement in a timely manner the resolutions of the Security Council adopted in accordance with Chapter VII of the Charter. The International Criminal Tribunal for the Former Yugoslavia (ICTY), for example, plans to conclude cases in the first instance only by 2010, whereas this was to have already been done by the beginning of the current. We believe that the Security Council, which established the Tribunals, must actively address the implementation of the completion strategies and give the Tribunals clear guidance for further action.

To that end, we propose the adoption of a Council decision to the effect that the Tribunals can begin no judicial proceedings in the first instance after 1 January 2009. In that way, the cases of all those individuals, both those under the jurisdiction of the Tribunal and those being sought, for whom there have not been any judicial proceedings by the end of this year would be referred to national jurisdictions. The indictments of those individuals who are referred to by name in Security Council resolutions can come under the

jurisdiction of the international residual mechanism that will be established in the near future.

In that same context, we should solve the issue of the extension of the functions of the judges themselves. We trust that such a decision will fully comply with the criteria established by the Council, pursuant to which the Tribunals are to conduct proceedings only with regard to high-ranking leaders suspected of bearing major responsibility for committing crimes falling under the jurisdiction of the Tribunals.

It has been 14 years since the creation of the Tribunals. In Rwanda and in those States that have emerged from the territory of the former Yugoslavia, we now see functioning, independent court systems. We see no basis for denying the sovereign right of those States to conduct national judicial proceedings, especially since those countries have stated their readiness independently to try those accused in the ICTY and the International Criminal Tribunal for Rwanda (ICTR).

With specific reference to the reports of the Tribunals, I would like to point out the following. Regarding the ICTR, we see at least some movement in compliance with the key element of the completion strategy — the referral of cases to national jurisdiction. Hearings are currently being held on four such cases and there are plans to transfer nine more accused who are fugitives from justice.

We consider the situation with respect to the ICTY to be unsatisfactory. From that body's report it is generally difficult to glean any coherent information on referrals to national courts. The previous report of November 2007 stated that, from the time of the adoption of the rules of referral of cases, the Prosecutor had submitted 14 motions with regard to 22 accused. The current report refers to 22 motions. The question therefore arises: Over the past half-year period, has the Prosecutor submitted eight more motions and, if so, where is the information on those? We also draw attention to the information that was distributed by the Serbian side considering cooperation with the Tribunal, which raises doubts as to the objectivity of the various sections of the report ICTY. In general, we can now see that the ICTY has not fulfilled the completion strategy on time, and the report gives no convincing reasons in justification of that.

I would also like to refer to the scandalous circumstances surrounding the acquittal of one of the

leaders of the Kosovo Liberation Army, the former Prime Minister of the province Ramush Haradinaj. The judges referred to the lack of evidence on any single charge of the many dozens brought against him, while issuing a statement on the unprecedented pressure placed on witnesses in that matter. For the first time in the history of international jurisdiction, witnesses have been subject to blatant blackmail and intimidation, while some have been done away with physically. It is amazing that such actions have been carried out in an atmosphere of complete impunity in spite of the international presence in Kosovo.

The Russian Federation has repeatedly drawn the attention of the Council to that unacceptable situation and called for decisive action in investigating the deaths of those people and for ensuring a more effective witness protection regime in Kosovo. Unfortunately, for various reasons our appeals have been blocked. The Haradinaj case has become yet another stain on the ICTY's reputation.

We expect from the Tribunal a detailed accounting of those steps that have been taken in the wake of the shocking revelations made by the former Prosecutor of the ICTY, Carla Del Ponte, with regard to facts on which the Tribunal has remained silent until recently. The current report represents more of the same. The comments that we heard at the ICTY's press briefing on that issue on 16 April can hardly be called acceptable. One gets the impression that whereas serious accusations, such as that concerning the numerous cases of forced removal of human organs, are simply disregarded by the Tribunal on a variety of pretexts, it stresses the urgency of concluding its work on schedule, the supposed lack of substantive information, and so on.

We believe that the ICTY has the duty to investigate those facts. When they are verified, we can then think about how the accountability of those who are accused of that outrageous crime can be included in the completion strategy of the Tribunals' work.

Mr. Tiendrébéogo (Burkina Faso) (*spoke in French*): At the outset, I should like to thank Presidents Byron and Pocar, as well as Prosecutors Brammertz and Jallow, for their briefings. My delegation has taken note of the reports of both Tribunals, which very precisely and clearly define the tasks that have been entrusted to them, the efforts they have made to fulfil those tasks, the difficulties that they have faced and

continue to face, and above all the challenges concerning the deadlines they have been given by which to conclude their work.

With regard to the work that has been accomplished, we would like to congratulate the staff of the Tribunals on the results that they have achieved. They have made significant efforts in prosecuting numerous accused and in handing down indictments and judgements. We welcome and encourage those efforts because they have thereby contributed significantly to fighting impunity and ensuring the supremacy of justice.

With regard to the deadlines established under resolution 1534 (2004), in view of the fact that they were set by the Council, it would be desirable that all necessary measures be taken in order to respect those deadlines. We congratulate both Tribunals on the practical measures they have taken to accelerate investigations and judgements, as well as to limit delays in preparing the trials. We invite them to continue to develop similar initiatives. In particular, they should identify as soon as possible those trials that should be referred to the competent national jurisdictions. In that regard, my delegation invites the international community to support the efforts of the States concerned to strengthen their national judicial systems. In any event, the Council will always be able, when the time comes, to assess the situation and take the necessary measures.

With regard to the crucial issue of fugitives, my delegation believes that the work of the Tribunals, even after the end of their mandates, will be effective only if those fugitives are caught and brought to trial. People who are suspected of having played a prominent role in committing the most severe violations of human rights and international humanitarian law should be brought to justice. In that context, we are happy to see the inclination of many States to cooperate with the Tribunals. We would, however, state our concern at the failings of some States in their cooperation with the Tribunals. It is important for all States to cooperate fully with the Tribunals, which were established by the Council.

Finally, with regard to the legacy of the two Tribunals and their residual functions, Burkina Faso is following with interest the activities of the Council's informal working group, which is seeking an appropriate response. We congratulate the working

group, which has started a second reading of the residual issues identified in the joint document of the two Tribunals. Such important work that must continue, and we await with interest the proposals that will be made on such essential issues as the archives, witness protection enforcement, the imposition of sanctions, and the trial of fugitives who are yet to be captured.

Mr. Laher (South Africa): My delegation wishes to thank Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia (ICTY), and Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR), for their statements introducing the respective reports of their Tribunals. We are also grateful to the respective Prosecutors of the ad hoc Tribunals for their informative statements on the steps they are taking to implement the completion strategies. This being the first report of Mr. Serge Brammertz as Prosecutor of the ICTY, we wish to convey our warm welcome to him and wish him well in his new capacity.

My delegation is pleased with the steps that the Tribunals are taking to ensure that they achieve the completion strategies.

We applaud the efforts of the ICTR Prosecutor to transfer files and refer cases to competent national jurisdictions. We are cognizant of the fact that, after an indictment has been confirmed, only the Chamber is authorized to make a decision to refer the indictment to a national jurisdiction. We welcome the request of the ICTR Prosecutor to the Chamber to transfer five cases, including the case of one fugitive, to Rwanda. In that regard, we have noted the decision of the Chamber not to allow referral of the cases to Rwanda, and we respect that decision.

We wish to highlight that it is important that there should be capacity-building in national justice systems in order to ensure that they are able to absorb the cases to be referred to them and for the Courts to have the confidence that judicial systems, such as that of Rwanda, will be able adequately to dispense justice. We welcome the recent steps that have been taken by the Government of Rwanda to improve its criminal justice system and encourage it to continue upon that path. We note that the matter of referrals is an important factor in the ability of the Tribunals to meet their completion strategies.

With regard to the ICTY, we remain concerned that, since the Prosecutor's last report, none of the

fugitives has been arrested. Some of those fugitives are high-level accused who deserve to be prosecuted. We call upon all States to fulfil their responsibilities under the Charter of the United Nations and effect the arrest warrants of the Tribunals.

We are particularly concerned that the ICTY Prosecutor indicates that cooperation is unsatisfactory in respect of the willingness to arrest Ratko Mladic, Radovan Karadzic, Stojan Zupljanin and Goran Hadzic. The States of the former Yugoslavia where the individuals accused by the ICTY are suspected to be hiding have a particular responsibility to cooperate fully with the ICTY.

It is gratifying that the decisions we have taken in the past to alleviate the pressure of the workload of the Tribunals by extending the service of ad litem judges, in the case of the ICTR, and by increasing their number, in the case of the ICTY, have had the desired effect. My delegation wishes to assure the senior officials of the Tribunals of our continued support towards achieving their mandate.

Mr. Spatafora (Italy): As this is the first time that I am taking the floor in this Chamber under your presidency, Sir, I want to express my most sincere and warm congratulations to you on your assumption of the presidency for this month. I am sure it will be very successful, and you can count on our full support.

At the same time, I offer my very warmest congratulations to Ambassador Sawers, now co-leading the mission in Africa, and the United Kingdom delegation on having so effectively and fruitfully conducted their presidency.

Let me also join other speakers in thanking President Pocar and President Byron, as well as Prosecutor Brammertz and Prosecutor Jallow, for their presentations to the Council.

Italy commends the tangible progress made in pursuing the completion strategies through the strong commitment of the Tribunals, their judges, their prosecutors and their staffs. I should like in particular to congratulate Prosecutor Brammertz, who took office on 1 January and is appearing before the Council in that capacity for the first time today.

We endorse and fully support the statement that will be delivered later by the Permanent Representative of Slovenia on behalf of the European Union. I will

therefore limit myself to making some additional remarks.

With increasing concern, we note that cooperation with the Tribunals in securing the arrest and surrender of the remaining fugitives has not improved. Cooperation is now more crucial than ever. It is imperative that pending arrest warrants be executed promptly to avoid further delays in the completion strategies. The mission of the Tribunals to help bring lasting peace to communities ravaged by heinous atrocities necessarily means bringing perpetrators to justice. The message must not be sent that time plays in favour of the culprits.

On the future of the completion strategies, Italy believes that the Council must be vigilant in avoiding undue delays in the administration of justice. The ability of the International Criminal Tribunal for Rwanda (ICTR) to respect the schedule presented in December has run into some impediments. I am pleased to note that a new schedule has been prepared and, although the task is daunting, I hope that the ICTR manages to meet the Council's expectations that the schedule will be respected.

Of course, in pursuing the completion strategies, the Council should avoid giving the impression that it intends to promote expeditiousness at the price of fairness. Fairness must be the overriding concern of any judicial institution, the ad hoc Tribunals being no exception. I am confident that the Tribunals will make every effort to finalize the numerous pending cases as efficiently as possible, continue the referral of intermediate and lower-ranking cases to competent national jurisdictions, and facilitate the judicial activities on appeal.

On the other hand, it is also essential to increase capacity-building activities in the countries most directly impacted, in terms of both the judiciary's proceedings and of outreach, which could have an enormous impact on the civilian population and on the future of those States. Any support from the international community for that process, including by strengthening the judicial capacity of the relevant States to conduct criminal trials for international crimes, is thus more than welcome.

In that regard, Italy commends the assistance extended to the International Tribunal for the Former Yugoslavia (ICTY) by the United Nations Interregional Crime and Justice Research Institute and the

Organization for Security and Cooperation in Europe, as recalled in the report of the President of the ICTY. Concerned mainly with the dissemination of best practices in judicial and prosecutorial activities within national courts, such assistance will contribute substantially to consolidating at the local and international levels the achievements of international judicial institutions in the field of international criminal law.

Finally, Italy would like to recall that the Tribunals' legacy is under serious consideration by this Council. There have been numerous meetings of the informal working group on international tribunals, chaired by Belgium, and many delicate issues have been or are being discussed. I am confident that, with the active contribution of the entire Council, important decisions will soon be made to reaffirm the purpose for which the Tribunals were established — to punish those responsible for the most heinous international crimes in the former Yugoslavia and in Rwanda.

Mr. Hoang Chi Trung (Viet Nam): My delegation would like to express its most profound appreciation to the Presidents and Prosecutors of the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) for their presentations today before the Council. We wish to take this opportunity to reaffirm our country's strong support for the work of the Tribunals to bring to justice the perpetrators of the most serious international crimes committed in Rwanda and the former Yugoslavia. Over the past 15 years, the two Tribunals have achieved a lot, and both are drawing towards a successful completion of their mandates.

Bearing in mind the time frame for the completion strategies of the two Tribunals, as set out by the Council in resolutions 1503 (2003) and 1534 (2004), we are very encouraged by the conclusion of the ICTR that the Tribunal remains on track with the majority of the projections announced in December 2007 to the Council. We take note of the ICTY's report that all efforts are being made to complete all trials as quickly and efficiently as possible, and that all appeals are estimated to be concluded in 2011.

While we fully share the assessments of the Tribunals that those estimates are subject to unforeseen circumstances, we are also mindful of the fact that the Council, in the aforementioned resolutions, asked the two Tribunals to take every step in their power to stay

within their deadlines and urged all States, in particular those of the regions concerned, to cooperate fully with the Tribunals towards the timely completion of their work. In that connection, my delegation welcomes all cooperative efforts rendered by States to the Tribunals, as shown in the reports.

Viet Nam notes with concern the number of fugitives, including the most senior ones whose names have been mentioned in the Council's resolutions. We believe, however, that the international community will not stop short of bringing those persons to justice. We encourage the Tribunals to continue vigorously with their efforts to decide, within the time frame of the completion period, on any possible referral of cases of fugitives to national jurisdictions. That would also help the Council to decide on an appropriate residual mechanism to ensure international trials in non-referable cases.

In the next two and a half years, we, as members of the international community, need to step up our efforts to ensure that the two Tribunals receive all the support necessary to complete their work and their mandates, including through continued provision of sufficient resources for retaining qualified staff members and working out good solutions in relation to their legacy. Assistance should also be given in capacity-building, aimed at enhancing the capacity of national jurisdictions to handle referred cases and legacy issues. The Security Council, with the assistance of its informal working group on the International Criminal Tribunals and in close consultation with the Tribunals, should make timely decisions on the residual arrangements and mechanism.

Finally, let me reiterate our firm commitment to working constructively with other members of the Council to ensure a smooth and effective completion of the work of the Tribunals.

Mr. Roelants de Stappers (Belgium) (*spoke in French*): I would like to express my thanks for the reports before us and for the statements made today by Tribunal Presidents Dennis Byron and Fausto Pocar and by Prosecutors Hassan Bubacar Jallow and Serge Brammertz. It is my particular pleasure to congratulate Mr. Brammertz: today is his first appearance before the Security Council as Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

My delegation fully endorses the statement to be made by the Permanent Representative of Slovenia on

behalf of the European Union. I wish to comment also on a number of other major points.

We have carefully studied the reports of the two Tribunals, and we continue to believe — as we said in the statements we made in June and December 2007 (see S/PV.5697 and S/PV.5796) — that the Tribunals have made considerable efforts to implement their completion strategies. To be sure, it is regrettable to have to note that, as indicated by the evaluations of the Tribunals, the appeals proceedings cannot be completed until 2011. My delegation appeals to the Tribunals to continue to do everything necessary to comply with the 2010 deadline, as far as possible. We cannot reproach the Tribunals for certain delays for which they are not responsible, in particular those caused by the late arrest and transfer by States of certain accused, as has recently been the case for the International Criminal Tribunal for Rwanda (ICTR).

In that regard, I would recall that, in our view, the completion dates set in resolution 1503 (2003) and reaffirmed in resolution 1534 (2004), are indicative and should be adapted in the light of developments. Those resolutions, which were adopted more than four years ago, called on the Tribunals to "take all possible measures to complete ... all trial activities at first instance by the end of 2008, and to complete all work in 2010" (*resolution 1503 (2003), para. 7, and resolution 1534 (2004), para. 3*). In the view of my delegation, this means that the dates should be considered in the light of circumstances and in the light of what the Tribunals are actually able to do.

The referral of indictments to certain national jurisdictions, in accordance with the provisions of rule 11 bis of the Rules of Procedure and Evidence of the two Tribunals, is an essential element of the completion strategies. But it is important to emphasize that the decision whether or not to refer a particular case is strictly judicial in nature.

The legacy of the Tribunals — and thus that of the Security Council, which established them — will be tarnished if fugitive accused are not brought to trial. That is especially true of fugitives accused of the most serious crimes. We appeal to all the States concerned to cooperate fully with the Tribunals in arresting those individuals and transferring them to The Hague or to Arusha. Belgium notes with regret Prosecutor Brammertz's mixed assessment of Serbia's cooperation with the International Criminal Tribunal for the Former

Yugoslavia, and we encourage the Serbian Government to do its utmost to cooperate fully with the ICTY. Similarly, in the light of the information provided by Prosecutor Jallow, we urge the authorities in Kenya and other countries of the region to cooperate fully with the ICTR.

Let me conclude with a few words about the residual functions that will need to be carried out after the closure of the Tribunals. Since the beginning of this year, the Belgian delegation has been chairing the informal working group on this matter, and I can bear witness to the substantial progress that has been achieved. As other delegations have noted, Ambassador Verbeke briefed the Council on this progress during its consultations in mid-May. Over the past months, the working group has methodically studied the list of residual functions identified by the Tribunals and has engaged in a dynamic dialogue with both Tribunals, in the form of written questions and answers. Indeed, this afternoon the working group will be meeting with the Tribunal Presidents, Prosecutors and Registrars to continue that dialogue.

Over the past months, the initial elements of agreement have emerged in a way that should enable us to move forward on residual matters. My delegation is now preparing a document setting out the options, on the basis of which discussions in the working group could continue during the second half of 2008.

Still on the subject of residual functions — and beyond the issue of trying fugitives not yet captured at the time of the closure of the Tribunals — I would like, in my national capacity, to emphasize the importance of issues related to the protection of victims and witnesses and to the enforcement of sentences. Those questions go to the very heart of the basic rights of the individual. As concerns the enforcement of sentences, I would add that the number of agreements concluded with the Tribunals remains insufficient, and we appeal to States to consider concluding further such agreements.

Ms. Pierce (United Kingdom): Let me add our voice to those of others who have welcomed the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) back to the Security Council. I thank them for their latest reports on the implementation of their completion strategies. I want to extend a particular

welcome to Serge Brammertz, who is no stranger to the Security Council but who is here for the first time in his capacity as Prosecutor of the ICTY.

My Government recognizes the progress which has been made over the past six months in completing the caseload of the two Tribunals, and we greatly value the commitment and hard work of all staff, led by the Presidents and Prosecutors, who have joined us today, in taking steps to expedite trials and appeals. I would be grateful if they would pass on our thanks to the teams who work with them.

Let me also urge both Tribunals to continue their efforts to avoid further slippage in the completion timetables. In that regard, we welcome the commitment to identifying further reforms in working practices. It is important that both Tribunals operate as efficiently as possible.

In the case of the ICTR, the recent decision of Trial Chamber III to reject the Prosecutor's request to refer the *Munyakazi* case for trial in Rwanda may have a significant impact on that Tribunal's ability to meet its completion deadlines. We look forward to hearing, over the coming months, how these issues are to be addressed.

The United Kingdom has repeatedly made clear through previous statements in the Security Council — and I do so again today — that the capture and transfer of the remaining ICTY and ICTR fugitive indictees remains an urgent priority of the highest order. It is unacceptable that so many fugitives — 17 individuals accused of the most serious crimes — remain at large.

The work of the Tribunals will not be complete until they are brought to justice in The Hague or in Arusha. In the case of the ICTY, all four fugitive indictees, including Karadzic and Mladic, must face international justice. In the case of the ICTR, we note that several of the fugitives' cases have been identified by the Prosecutor as suitable for referral for trial at the national level. In all cases, it is vital to secure full international cooperation to secure the arrest of those individuals so that justice can take its course.

We would recall that all States are under a continuing obligation, as underlined in resolutions 1503 (2003) and 1534 (2004), to cooperate with the ICTY and ICTR, including in locating and transferring indictees. The United Kingdom itself stands ready to provide the Tribunals with any necessary assistance,

but inevitably and naturally, a particular and primary responsibility in that regard lies with the States of the region.

We note Mr. Brammertz's assessment that a constructive relationship between the ICTY and regional authorities has resulted in satisfactory levels of cooperation from Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro, in particular in such areas as access to archives and documents. We also note, however, that Mr. Brammertz has assessed cooperation with Croatia and Serbia as only partially satisfactory. We acknowledge the recent unsuccessful attempt by the Serb authorities to capture fugitive indictee Stojan Zupljanin, but that is not enough. We strongly urge all countries in the region, especially Serbia and Bosnia and Herzegovina, to maximize and sustain efforts to capture all fugitive indictees and to transfer them to The Hague.

I associate myself with the statement that will later be made in the Chamber on behalf of the presidency of the European Union (EU). The United Kingdom welcomes the signature of Serbia's Stabilisation and Association Agreement with the EU, but full cooperation with the ICTY remains firmly embedded in the EU accession process. The conclusions of EU foreign ministers make it clear that the implementation of the interim agreement and the ratification of the Stabilization and Association Agreement will only take place once the Council has decided that Serbia is fully cooperating with the ICTY.

On ICTR cooperation, we are concerned by the recent letter to the Secretary-General from the Prosecutor addressing cooperation by Kenya and the Democratic Republic of the Congo in relation to the arrest of certain fugitives, notably Mr. Kabuga, who are believed to be hiding out in those countries. We urge both the Democratic Republic of the Congo and Kenya in particular to provide full and prompt cooperation with regard to the ICTR Prosecutor's efforts to locate and arrest ICTR fugitives.

We welcome the steady progress made by the Council's working group in examining the residual functions of the Tribunals that will remain after completion. We are grateful for the continued assistance and cooperation provided to the two Tribunals in that work, and pay tribute to the Belgian mission for its work in the working group. It is clear

that decisions are now required on key issues so that the Security Council can decide in a timely manner on a coherent plan for the residual arrangements. We look forward to continued cooperation with both Presidents and Prosecutors on those issues over the coming weeks.

I would like, if I may, to respond to some of the things we have heard in the Chamber this morning. I have listened carefully to what other representatives have said, and I would like to say that we in the United Kingdom do not share the Russian Ambassador's assessment of the ICTY's activities or role. The ICTY is an independent judicial body and its judgements are based on the evidence presented to it. The United Kingdom has full confidence in the Tribunal's impartiality and its decision-making processes. I would like to stress that the ICTY and the ICTR are the sole authorities established by the international community, and in particular by the Council, to assess cooperation on war crimes and crimes against humanity in all the territory of the former Yugoslavia and in Rwanda. It is their assessment that counts and it is their assessment that the Council should support. States should not seek to compete with the Tribunals' assessments, but should instead give them all possible access to information and cooperation.

The issue of protection for witnesses has also been raised today. Securing adequate protection for witnesses is a critical issue in ensuring that all evidence is made available to the Tribunal. Previous reports from the ICTY Prosecutor have illustrated that witness protection has been a challenge across the region in a number of cases in Kosovo, but there have also been difficulties in protecting witnesses in Serbia. Full cooperation from all Governments on those issues is vital. We welcome the commitments of the Kosovo Government to do all it can to meet its obligations. We expect those commitments to be fulfilled.

On the Haradinaj case itself, we note that the Prosecutor has filed a notice of appeal. We look to due process to take its course.

Could I end by just reiterating the need for the most senior fugitives to face international justice. Some 13 years after the massacre at Srebrenica, I think it is important that we recall exactly what that massacre was about and the people who have been indicted as being responsible for it, namely, Karadzic and Mladic. Srebrenica was the worst massacre in

Europe since the end of the Second World War. It saw the slaughter of 7,000 Muslim men and boys. The victims of that awful crime deserve to have the people who were responsible for perpetrating it face justice in an international court.

Mr. Jurica (Croatia): I would like to welcome Judge Pocar and Judge Byron, the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as well as Prosecutors Brammertz and Jallow. I thank them for their respective reports.

The establishment of those two Tribunals by the Security Council 15 years ago was one of the defining moments in the development of international criminal justice. My country, Croatia, was one of the early proponents of their establishment, having been directly affected by the most painful experience of war crimes committed by the aggressors against its citizens in the early 1990s. Today, as the Tribunals' mandates are drawing nearer to the completion date, we can say that many of the goals for which they were established have been largely accomplished. However, before we can confidently state that their mandates have been completed, the international community has to make sure that every effort has been made to bring those most responsible to justice, however long it takes.

We have listened attentively to the reports presented to the Council by the representatives of the two Tribunals. We welcome their commitment to ensure that every measure is taken to expedite the work of the Tribunals and to implement their respective completion strategies at an early date. As part of that exit strategy, the Council will have to take decisions on certain mechanisms, the existence of which will be necessary even as the current trials area concluded, in order to ensure the continuation of a certain number of essential residual functions. Croatia will continue to engage in those discussions with a view to a timely articulation of such mechanisms. In that respect, I would like to point out two things related to the legacy of the ICTY in particular.

First, when addressing the issue of residual mechanisms, it is crucial that the Council make it clear that the core mandate of the Tribunals should not be compromised. It is therefore essential that fugitives face trial. In the case of the ICTY, that means that all four remaining fugitives — Radovan Karadzic, Ratko

Mladic, Goran Hadzic and Stojan Zupljanin — must face international justice. Without it, the Tribunal's mandate will remain unfulfilled and its legacy incomplete. Any decision on the possible transfer of such trials to national jurisdiction may only be taken by a judicial instance.

Secondly, the interests of the long-term legacy of the Tribunals make it imperative that optimal solutions be found for balancing the interests of the most affected countries with the interests that the international community as a whole has in preserving that legacy. The issue of archives is an important element of future residual structures. Bearing in mind that their significance extends beyond judicial processes, we look forward to finding a solution that reconciles the interests of all stakeholders in the region and beyond, most notably those of victims and survivors, as well as those pertinent to ongoing or future trials.

As it has stated on many occasions, Croatia firmly believes that one of the most important determinants of the long-term legacy of the Tribunals is to ensure that it has been embraced by the countries under their jurisdiction. That is why the active involvement of national jurisdictions in the prosecution of war crimes is important. Not only does it add to an effective completion strategy, but it also demonstrates national ownership. The Croatian judiciary has clearly demonstrated its ability to conduct trials of even the most sensitive cases, including the one case that was transferred to it by the ICTY. Within the framework of the Tribunal's completion strategy, Croatia stands ready to take over any other remaining cases involving Croatian citizens or crimes committed in Croatia.

Furthermore, my country is ready to assume responsibility for the residual functions relating to the serving of sentences and is interested in concluding an agreement to that end with the ICTY so that the sentenced persons who so wish may serve their sentences in Croatia.

As stated before, we think that the directions guiding current practice are obsolete, as the circumstances have changed substantially since the inception of the Tribunal, thereby justifying the serving of sentences in the country where the crimes were committed, as is already the case with the sentences delivered by the Rwanda Tribunal. We see no reason to

continue the discrepancy in the practices between the two Tribunals.

I would now like to say a few words and provide some precise information on recent developments in Croatian cooperation with the Tribunal. Croatia is and will remain actively engaged in supporting the work of the Tribunal, including by providing the documents and information necessary for the preparation and conduct of trials. Over the past year, the Croatian authorities have developed an excellent working relationship with the ICTY prosecution. Croatia also has a permanent role in advancing regional cooperation in the war crimes trials. We have taken note of today's remarks by the Prosecutor. We see no grounds for questioning what has previously been described as a generally satisfactory level of cooperation as the willingness of the Croatian authorities to engage in regional and international cooperation on war crimes trials remains exemplary.

The extensive working relationship developed between the relevant Croatian authorities and the representatives of the Tribunal has in no way subsided over the past reporting period. The Prosecution has been given full access to the State archives, including those of the Ministry of Defence. So far, more than 9,000 documents have been handed over to the Prosecution, including those emanating from the highest ranking military officials. Nearly 800 requests for assistance have been received so far, of which only one remains partially unfulfilled. The outstanding request No. 739 has been given full attention by our authorities, and the ICTY has already received extensive documentation — 1,833 documents — pertinent to the request. We are conducting several internal investigations in the country with a view to discovering the possible existence of other documentation sought by the Prosecution. The Prosecution has been regularly updated on those activities. An early effort has been made to bring them to a prompt conclusion.

Croatia continues to believe that justice is an essential prerequisite for lasting peace. It attaches great importance to the fair and expeditious trial of all perpetrators of war crimes. However, the failure to establish individual criminal accountability undermines that goal and threatens to undermine the long-term legacy of the Tribunals.

Last fall, the judgement delivered by the Tribunal in the case of the so-called Vukovar Three provoked strong reactions in Croatia, particularly among the victims, their families and their associations. We took note of the appeals by the Prosecution in the Mrkšić and Šljivančanin cases, who were part of the Vukovar Three. However, it is difficult to comprehend why no appeal has been filed in the case of the acquitted Miroslav Radić, the remaining third participant in the massive crime, in which, among other things, more than 260 persons were summarily executed. We continue to hope that the appellate judgement in the Vukovar case will render justice that can stand the test of time.

Let me conclude by quoting the Prime Minister of Croatia, Mr. Ivo Sanader, who addressed the General Assembly on this issue last fall.

"The issue of punishment for war crimes relates to responsibility in a broader sense. It relates to the responsibility of the international community to ensure effectiveness in preventing conflict and protecting and promoting human rights, humanitarian law and the rule of law in general." (A/62/PV.25, p. 10).

It is precisely for that reason that the Tribunal was established in 1993. Prime Minister Sanader also stated that ensuring

"a just outcome of prosecution is the only way to discourage those who might consider repeating such crimes, today or in the future. Just punishment offers a measure of respect for the victims. Just punishment is the best deterrent. Just punishment also serves truth and opens the way for lasting peace, security and reconciliation". (*ibid.*, p. 8).

Mr. Kleib (Indonesia): My delegation joins previous speakers in welcoming the Presidents and Prosecutors of both Tribunals to the Council and in thanking them for their comprehensive briefings on the progress of the implementation of the completion strategies of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).

Like others, we underscore the importance of the completion strategies, which are instrumental in the performance of the ICTY and ICTR in their final phases. In that regard, Indonesia notes with

appreciation that various concrete measures have been taken to implement the strategies and that significant progress has been achieved towards the completion of the work of the two Tribunals. We fully appreciate the significance of the continuous efforts of the Tribunals to achieve greater efficiency by exploring further ways to expedite proceedings while respecting the rights of the accused.

In connection with some functions of the Tribunals that will remain in place following the completion of their work, we wish to underline the need for the Security Council to establish a particular mechanism to deal with residual functions. Such a mechanism should be able to address residual functions, particularly those related to fugitives at large, transfers of cases to national jurisdiction, witness protection, sentence supervision and archives. The mechanism, we believe, should hold only the particular residual functions that are necessary to retain. Functions other than those should be transferred to national jurisdiction or other relevant bodies.

It is also the view of my delegation that the most essential residual function that the Council should consider is the trial of fugitives. In that regard, it is pertinent for all States concerned to fully cooperate in order to bring all perpetrators of crimes against humanity in the former Yugoslavia and Rwanda to justice. Impunity is unacceptable.

Another significant feature of the two Tribunals' completion strategies as they relate to residual functions is the referral of cases to national courts. My delegation recognizes the merits of challenges posed by such referrals. It is therefore vital for the international community to continue to support the capacity-building performance and programmes of the relevant national courts. Much work remains to be done if the national courts are to take over the judicial function of the Tribunals in the future. In that regard, we commend the efforts of the Tribunals to strengthen their cooperation with the respective national authorities.

In the light of that, my delegation would like to specifically mention that the informal working group on the Tribunals chaired by Belgium has successfully arrived at some areas of agreement in identifying residual functions and possible solutions to the issues they raise. We share the view that the agreement could serve as good common ground for the working group

to move forward to a new phase of work by focusing on the possible elements of a Security Council resolution. We encourage the continued close cooperation between the two Tribunals and the working group on the Tribunals' legacy, most crucially with respect to mechanisms required to disposing of the Tribunals' residual functions.

Before concluding my remarks, I would like once again to reiterate my delegation's support to both Tribunals in discharging their mandates, including the implementation of their respective completion strategies. We also wish to express our appreciation for their contribution to bringing to justice those responsible for crimes against humanity in the former Yugoslavia and Rwanda.

Mr. Lacroix (France) (*spoke in French*): My delegation would like to join previous speakers in thanking Tribunal Presidents Pocar and Byron and Prosecutors Brammertz and Jallow for their very precise and detailed briefings. We also, of course, associate ourselves with the statement to be delivered by Slovenia on behalf of the European Union. I would like to make some comments in my national capacity.

First of all, I would like to assure our guests of France's full support to the important efforts to be carried out by the Tribunals in this difficult phase of the completion of their work. The Security Council set up the Tribunals so that the serious crimes against humanity committed in Rwanda and in the former Yugoslavia would not go unpunished. In seeing to it that those responsible get a fair trial, the international community wanted not only to see justice done, but also to reduce tensions and restore peace and security in those areas afflicted by terrible conflict.

That objective has largely been achieved, thanks to the work of the Tribunals. Their term is now coming to an end, and we believe that we should give them all the support they need to be in a position to fully carry out their mission. That is the point of the completion strategies defined in 2003 and 2004 by the Council. A timetable was laid out: 2008 was to be the end of the trials at first instance, and 2010 the end of the appeals process and all of the work. We commend the Tribunals for their efforts to comply with that timetable. The steps taken to streamline the trials should be highlighted, as should the intensification of the pace of work. The Security Council's decision to authorize the International Criminal Tribunal for the Former

Yugoslavia (ICTY) to recruit additional ad litem judges has been particularly useful in that regard.

Complying with the timetable means that we must give the Tribunals the resources necessary to conduct their activities in a sustained manner without compromising the quality of justice dispensed. We note the delays encountered with regard to the completion strategy, which can be largely explained by the judicial complications mentioned in the reports. Furthermore, the referral of cases to national jurisdictions is an important aspect of the completion strategy, but we understand that its implementation by the judges is not always easy.

The international community too bears its share of responsibility for the delays, since progress in the proceedings also depends on cooperation by States. We acknowledge the indicative nature of the deadlines set by the Council, but we request the Tribunals to do all that they can to comply with them. We note with satisfaction the commitments undertaken in that regard. We must ensure that the spillover not exceed a reasonable time frame.

The major uncertainty with regard to completion is the question of the accused still at large. We agree that the mission of the Tribunals will not be accomplished with those accused have been arrested and tried. France is firmly committed, in particular, to bringing to justice Messrs. Mladic, Karadzic, Zupljanin and Hadzic, for the ICTY, and Mr. Kabuga, for the ICTR. We regret, in that regard, the inadequate cooperation shown by Serbia and Kenya, and we call upon those States to fully cooperate with the Tribunals.

France earnestly hopes that the problem of fugitives will be solved before the end of the Tribunals' work. If that is not the case, it should be done within the framework of managing their legacy, because it would be unacceptable for the end of the Tribunals to mean impunity for those criminals still at large.

That of course leads me to deal with the question of the residual functions of the Tribunals, on which an informal working group of the Council, very effectively chaired by Belgium, has been working for several months. Our objective is to ensure that the Council is in a position by the end of the year to adopt a resolution that would establish a framework for managing the residual functions of the Tribunals after they are gone. We welcome the points of agreement that have already been achieved within the group, first

and foremost the rejection of impunity and bringing the fugitives who bear the greatest responsibility before international justice. We believe that we should provide for a mechanism that would restore the capacity to try those individuals once they are arrested. Furthermore, we strongly consider that such a mechanism, which must be compact, effective and economical, should provide for the functions necessary to administer justice in full equity and security. We are, finally, committed to ensuring that the United Nations retain ownership and control of the Tribunals' archives.

In general, France believes that the United Nations and the Security Council are duty-bound to take the necessary steps to ensure the integrity and lasting nature of the legacy of the Tribunals. The mission for international justice entrusted to them should be completed and the conclusion of their work in terms of the strategy defined by resolutions 1503 (2003) and 1534 (2004) must not mean renunciation of the primary impetus behind their creation, that is, the rejection of impunity and the determination to see justice done.

Mr. Soler Torrijos (Panama) (*spoke in Spanish*): First of all, allow me to join others in congratulating the Presidents and Prosecutors of both Tribunals on their briefings this morning. Our delegation acknowledges the significant work carried out by both Tribunals in providing peace, justice and reconciliation to Rwanda and to the republics of the former Yugoslavia. In that context, we hail and thank all of the staff of the Tribunals for their work, in particular their efforts to ensure compliance with the goals of the completion strategies as laid out in resolutions 1503 (2003) and 1534 (2004).

With regard to the International Criminal Tribunal for the Former Yugoslavia (ICTY), we are pleased to note the satisfactory cooperation received from the Governments of Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Montenegro. It is important that that cooperation and dialogue continue, in particular with regard to witness protection and enforcing sentences. However, we are concerned by the report's observation that cooperation by the Government of Serbia is not satisfactory with regard to access to archives and key documents and to the capture of those who are still fugitives, including Radovan Karadzic and Ratko Mladic.

With regard to the work of the International Criminal Tribunal for Rwanda (ICTR), our delegation has taken note of the recent arrests, the workload that those new cases mean for the Tribunal and the effects that that will have on the expectations contained in the completion strategy. We therefore await with interest the result of the deliberations that the Tribunal will have to carry out as soon as possible to deal with this new workload. We are committed to working constructively on the basis of that analysis.

With regard to the situation of ICTR fugitives, my delegation is concerned at the recent report by the Office of the Prosecutor that indicates insufficient cooperation by the Governments of Kenya and the Democratic Republic of the Congo. We urge the parties to comply with their legal obligations in order to meet the objectives of the Tribunal as established in resolution 1503 (2003).

The ICTY and ICTR were not established as permanent institutions, and therefore their task should be completed in full, as established in the completion strategies adopted by the Security Council. Therefore, the Tribunals need the infrastructure and the administrative and judicial staff necessary to ensure that both of them can meet their objectives with the same diligence as we have seen thus far in their work.

We also believe that it is of the greatest importance to listen to the concerns and considerations put forward by both Tribunals with regard to the retention of experienced staff. That issue could indubitably have negative repercussions for the work of the Tribunals. We acknowledge and thank the United Nations Secretariat for the measures taken last year in that context, and we urge it to take additional measures to ensure that the Tribunals have the personnel they need to finish their tasks on time and in an efficient manner.

Finally, we note the studies and proposals made by the Tribunals on their legacies and residual issues, and we thank them in particular for the effective communication and interaction with the Council's informal working group on the Tribunals. We agree with them that the Council should ensure the creation of an effective jurisdictional mechanism to resolve those residual issues and to consider options for trials of individuals captured after 2010.

The President: I should like to make a statement in my capacity as the representative of the United States of America.

I would like to thank the two Presidents and the two Prosecutors for their briefings today. The United States welcomes the assessment of the Prosecutors and the Presidents on the implementation of the Tribunals' completion strategies. We commend the Tribunals, judges and staff for their diligence and dedication. We note in particular our appreciation for the tireless efforts of Prosecutor Hassan Jallow, and we welcome the new Prosecutor, Mr. Brammertz, back to the Council.

The United States urges the Tribunals to continue to implement their completion strategies with maximum efficiency. We are encouraged by the relatively small number of cases that remain in the pre-trial stages, and we expect that the Chambers will work to bring those cases and trials currently in progress to resolution as soon as possible. With that in mind, I would like to make three points.

First, we commend the Tribunals for their efforts to transfer to national jurisdictions, as appropriate, the cases of indictees who are not accused of bearing the highest levels of criminal responsibility. Those efforts must be accompanied by the ongoing support of the international community for the domestic judicial capacity of Rwanda and the countries of the former Yugoslavia.

Secondly, the 17 individuals who have been indicted by the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and remain at large must be brought to justice. The United States urges the international community to work towards securing the arrest of those indictees as soon as possible.

Thirdly, the United States calls on all States to fulfil their obligations to cooperate with the Tribunals. We are troubled by reports that suggest that the ICTR fugitive and alleged genocide financier Kabuga is now in Kenya. We note with particular concern Prosecutor Jallow's assessment that the Government of Kenya has not fully cooperated with the Tribunal's effort in seeking Kabuga's apprehension. The United States urges Kenya to act immediately on the Tribunal's recommendations and to take additional steps to deny Kabuga access to his network of support.

The apprehension of ICTY indictees, particularly Mladic and Karadzic, remains essential to ensuring lasting reconciliation in the Balkans. We call on all countries in the Western Balkans, and Serbia in particular, to fulfil their obligations by arresting and transferring all fugitives to the ICTY. We applaud the efforts of the Prosecutors in Bosnia and Herzegovina and Croatia and the Office of the War Crimes Prosecutor in Serbia to work closely with ICTY authorities and to share information. We urge those countries to continue to increase information-sharing and to allow the transfer of war crimes proceedings between the States as appropriate.

As the Tribunals implement their completion strategies, the United States will continue to support efforts to ensure that the residual issues can be successfully addressed following the Tribunals' eventual closure. Again, we thank the Presidents, Prosecutors, Registrars and their staff for their pursuit of accountability and their service to the memory of the victims.

I now resume my functions as President of the Council.

I give the floor to the representative of Slovenia.

Ms. Štiglic (Slovenia): I have the honour to speak on behalf of the European Union (EU). The candidate countries Turkey, Croatia and the former Yugoslav Republic of Macedonia; the countries of the Stabilisation and Association Process and potential candidates Albania and Montenegro; the European Free Trade Association countries Liechtenstein and Norway, members of the European Economic Area; as well as Ukraine, the Republic of Moldova, Armenia and Georgia align themselves with this declaration. In the interests of time, I will deliver an abbreviated version of the EU statement. A complete and official version is being distributed in the Chamber.

At the outset, we would like to express our appreciation to you, Sir; the Presidents of both Tribunals Judge Pocar and Judge Byron; and the Prosecutors; Mr. Brammertz and Mr. Jallow, for providing today's briefings on the implementation of the respective Tribunals' completion strategies.

The European Union wishes to reiterate its strong support for the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). During the

years of their existence, the Tribunals have made an important contribution to international law. They have sent a clear signal that transparent and effective international criminal justice is viable. By bringing to justice persons responsible for serious violations of international humanitarian law and by rendering justice to the victims, the Tribunals have invaluable contributed to the restoration of peace and stability and to the promotion of the rule of law in the affected areas. The Tribunals' achievements have clearly proven that peace and justice can go hand in hand, and it remains our firm conviction that they should go hand in hand. In our view, the Tribunals have invaluable contributed to the restoration of peace and stability. Shocking crimes, as we have seen in those conflicts, should not go unpunished and the perpetrators of those crimes must be held accountable for their acts.

The EU deeply regrets that, despite the continuing appeals from the international community, 17 indictees are still at large — four indicted by the ICTY and 13 by the ICTR — and that among those are some of the key persons allegedly responsible, such as Ratko Mladic, Radovan Karadzic and Félicien Kabuga. Since the most recent completion strategy report was issued, only one fugitive has been arrested. While the EU commends the arrest of Mr. Nzabonimana, a top-level fugitive, by Tanzanian authorities, at the same time it urges all States immediately and unconditionally to cooperate with both Tribunals, in full adherence to their obligations under the relevant Council resolutions. The EU remains absolutely committed to ensuring that all remaining fugitive indictees face international justice.

Full cooperation with the Prosecutor's Offices of both Tribunals by providing access to archives and documents; access to and protection of witnesses; and, in particular, tracking, arresting and surrendering the remaining fugitives is paramount for the successful completion process. We call on all those involved to redouble their efforts to expedite the arrest and surrender of the remaining fugitive indictees.

In the context of the ICTY, the EU remains absolutely committed to seeing all four remaining indictees face international justice. The EU regrets that Serbia's cooperation during the last reporting period concerning the apprehension of fugitives remains unsatisfactory. Statements made by Serbian President Tadić following the recent elections on making cooperation with the ICTY one of the new

Government's priorities are encouraging. It must be emphasized that full cooperation with the ICTY is a State responsibility, regardless of which Government is in office.

The EU takes note that much work still remains to be done to facilitate cooperation between States of the region in the investigation and prosecution of alleged war criminals. The EU calls upon States in the region, in particular Kenya, to fully cooperate with the ICTR in accordance with their legal responsibilities. On this occasion, let me remind the Council that the EU has adopted three common positions and a Council regulation in order to support the effective implementation of the mandate of the ICTY.

The EU commends both Tribunals for their ongoing efforts to take all possible measures to complete all trial activities at first instance by the end of 2008 and to complete all work in 2010. However, the EU takes note of the estimated delay to the original completion strategy deadlines due a number of factors, including the late capture and transfer of fugitive indictees.

The EU further welcomes the work that both the ICTY and the ICTR have undertaken on residual issues, and the EU welcomes the discussion of those issues, under Belgian leadership, within the informal Security Council working group on international tribunals.

We acknowledge that the completion strategy has positive impacts on national judicial systems, and consequently on societies. The EU welcomes the creation of specialized institutions for the prosecution and trial of intermediate and lower-rank accused in Croatia, Bosnia and Herzegovina and Serbia. The EU also fully supports the strengthening of the Rwandan judicial system and the improvement of its capacity to start prosecuting cases awaiting referral from the ICTR.

We would like to underline that national judicial authorities need to carry out fair judicial proceedings and to provide that sentences are served in accordance with the appropriate security standards. The EU therefore attaches importance to the continued monitoring of referred trials to ensure that they are conducted in accordance with international standards. While the transfer of intermediate and lower-rank cases is a feasible solution in the light of an ongoing completion process, the EU remains convinced that,

once apprehended, remaining high-level fugitives must be prosecuted and tried before an international tribunal.

The EU welcomes the recent signing of agreements on the enforcement of sentences by Estonia and Slovakia and calls on other Member States to follow that example.

Finally, the EU commends the outreach programmes of the Tribunals, which disseminate the work of the Tribunals to the wider population in order to assist in achieving our key objective, that is, truth-telling and reconciliation processes in the respective post-conflict regions, and consequently to guarantee peace and security in the international community as a whole. The EU stands ready to take its share of the responsibility to achieve those objectives.

The President: I now give the floor to the representative of Rwanda.

Mr. Ngoga (Rwanda): My delegation wishes to thank you, Mr. President, for this opportunity to address the Security Council on the important issue of the International Criminal Tribunal for Rwanda (ICTR). We would like to reiterate to the ICTR the full support and cooperation of the Government of Rwanda as the Tribunal endeavours to implement the completion strategy.

My delegation expresses its thanks to Judge Byron and Prosecutor Jallow for their respective presentations. We are also grateful for the valuable work that is being done by the entire staff of the ICTR. The people of Rwanda appreciate their contribution to our reconciliation process.

We note and commend the efforts being made by the ICTR to implement resolutions 1503 (2003) and 1534 (2004), which relate to the completion of the ICTR and ICTY mandates. We also highly commend the attention and due diligence that the Security Council continues to exercise in its bid to ensure the successful and smooth completion of the ICTR's mandate.

The crimes falling under the ICTR's mandate were committed in Rwanda, mostly by Rwandans and against fellow Rwandans. That makes Rwanda the most responsible and concerned State in the pursuit of justice for those crimes. It is in that regard that Rwanda considers it imperative that it participate fully in the determination of matters pertaining to the ICTR, in particular as regards the completion process. We have

continued to improve our institutional mechanisms for cooperation with the ICTR to keep pace with the completion process and the associated cooperation challenges. We are happy to inform the Council that, to date, we have been able to handle all the requests made by the various organs of the Tribunal. I note the acknowledgement in the President's briefing regarding the situation of cooperation.

In its resolutions 1503 (2003) and 1534 (2004), the Security Council directed the two Tribunals to wind up their activities within specified deadlines. The resolutions further directed that middle- and lower-ranking cases be transferred to national jurisdictions, including that of Rwanda. As a matter of State responsibility, Rwanda began close consultations with the Tribunal and began to prepare the ground to receive cases and conduct trials in some of the cases that may be transferred from the ICTR.

A comprehensive piece of legislation was passed in March 2006 to govern the transfer of cases to Rwanda from the ICTR and from any other State. The law provides sufficient guarantees for fair trials. It is specifically based on the ICTR's Rules of Procedure and Evidence, as well as other best practices recognized and applied by the ICTR. The law allows the ICTR to monitor trials and recognizes the ICTR's primacy and right to call back a transferred case.

Modern courtrooms have been prepared. For the past two years, a joint programme has been in place between the ICTR and Rwanda. Under the joint programme, we have conducted familiarization and interaction visits between the ICTR and Rwanda, coupled with workshops for judges, prosecutors, members of the bar association and other staff members. A modern holding cell has been constructed in Kigali to accommodate ICTR detainees who would be appearing in Court.

Similarly, an agreement for the transfer of ICTR convicts to Rwanda was signed on 4 March 2008. The agreement is founded on the requirement provided for under the ICTR Statute to have sentences served in Rwanda. We have a modern correctional facility that is intended to accommodate ICTR convicts sent from Arusha, as well as ICTR accused who may be convicted.

The Tribunal's Prosecutor and Registrar have both conducted a series of visits to Rwanda to verify Rwanda's readiness and willingness to receive the

ICTR's outstanding workload. They have expressed their satisfaction with the level of compliance with internationally recognized standards and norms attained by Rwanda's judicial institutions. We were able to make all those preparations with the support of numerous members of the Security Council. That is due to the fact that Rwanda has a shared interest with the Council in ensuring a smooth winding-up process for the ICTR.

The fugitives still at large are not limited to the 13 appearing on the ICTR's list. We have repeatedly appealed to the Security Council to see to it that the conclusion of the ICTR's mandate does not become an amnesty for those not included on the list, which is very condensed. My Government appreciates the efforts of some Governments that have apprehended some of the fugitives. The proceedings for their extradition to Rwanda are under way, largely as a result of the judicial sector reforms and capacity development taking place in Rwanda and that I have previously described.

Rwanda's commitment to comply with international standards of fair trial and judicial independence is unquestionable, as it is central to my Government's policy founded on our continued fight against impunity. We have made significant progress in that important aspect. The progress made meets the requirements inherent in the ICTR's completion process.

Since May 2007, the ICTR Prosecutor has filed five requests for the transfer of cases to Rwanda for trial. The five referral applications are pending before different Chambers of the Tribunal. Rwanda has discharged its duty to file submissions before the respective referral Chambers, demonstrating the willingness and ability to handle those cases.

In spite of all those efforts, my country is seriously concerned about the direction that the issue of the referral of cases is taking. We are particularly concerned that that process has the potential to undermine the trust and reputation we have painstakingly built. It is that trust and confidence that has led certain Governments, including some members of the Security Council, to apprehend some of the fugitives found on their respective territories.

Our achievements in judicial reform are not intangible; they are very visible. Our participation in the completion process is a response to a call, not a

public relations exercise. We must be judged on the basis of our conduct and policies, not on the basis of presumed future misconduct. We expect and hope to inherit from the ICTR a legacy that complements our efforts. We expect a legacy that supports the growth of our institutions.

The ICTR's decisions, including those being made by judges, are supposed to be specific to the cases and suspects, and not to be used to undermine an entire national system. We note with dismay that the recent decision in the *Munyakazi* case is inconsistent with previous reports and the present report of the Tribunal as regards the level of cooperation between my Government and the Tribunal. Those reports unequivocally state that Rwanda cooperates fully with the ICTR. It is more disappointing to note that the ICTR judges rely solely on reports by non-governmental organizations to justify their decision, in total disregard of Rwanda's views on those reports. They have misinterpreted the Rwandan Government's rejection of pronouncements by foreign national jurisdictions, despite the fact that this is a sovereign right.

In 1999 Rwanda protested conduct of the court in the *Barayagwiza* case. Barayagwiza was eventually convicted by the ICTR through to the appellate level. The ICTR has since handed down five acquittals, and that has not raised any protest from Rwanda. The Tribunal chose to refer to the 1999 incident and kept silent on those subsequent acquittals in order to portray Rwanda as a country that is opposed to acquittals. We view this as a serious misinterpretation — and one that has serious consequences. We are dismayed by the ruling, which portrays our country as one that cannot be trusted. This is likely to create grounds for fugitives at large to roam around in different countries with impunity. We are informed, however, that the ICTR Prosecutor intends to appeal this decision, and we will continue to be interested in developments.

Regarding the Prosecutor's decision on the Kabgayi case, we reiterate our commitment and readiness to take it through the judicial process in strict observance of the norms and principles of a fair trial and in observance of the commitment we have made to the Prosecutor.

Rwanda is committed to upholding justice and ending impunity. It is therefore incumbent upon the Security Council to establish support mechanisms to

help Rwanda in its efforts. Under such mechanisms, issues related to post-ICTR residual functions could be addressed as well.

At this crucial juncture, Rwanda still believes that the major interest, shared with the Security Council, is to find an amicable conclusion of the ad hoc mandate of the Tribunal. In this period we need a more sustainable and long-term mechanism between United Nations Member States and the Government of Rwanda, under which the key issues — particularly the transfer and trial of all remaining ICTR cases, the pursuit of fugitives at large, the monitoring of the serving of sentences and the management of archives — can be addressed. We need a mechanism to ensure that the set goals do not shift gradually. We need to guard against endless faits accomplis. It is through such a mechanism that we can have a smooth and effective completion process.

As I pointed out earlier, in March of this year Rwanda signed an agreement on service of sentence. We have completed all the arrangements for having all of the convicts sent to Rwanda to serve their sentence. We can only expect the ICTR to smoothly complete the remaining part of this agreement.

The issue of the transfer of archives to Rwanda remains pending; consultations have been going on with the team designated to study and make recommendations on the matter. We reiterate our desire and readiness to take full custody of the archives. Given that this is a crucial undertaking, the earlier formal discussions can begin the better.

The President: I now give the floor to the representative of Serbia.

Mr. Jevremović (Serbia): Before I proceed to make my statement, I would like to pay my respects to Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), as well as to Mr. Serge Brammertz, the new Prosecutor of the ICTY, to whom I wish much success in that post of great complexity and responsibility.

In its session on 29 May, the Government of the Republic of Serbia adopted a report on Serbia's cooperation with the ICTY over the past six months and on the framework for future cooperation. The report has been circulated to all members of the Security Council. However, I shall give a brief account of the main points of the report.

Out of the 46 indictees requested by the Tribunal for transfer, Serbia has transferred 41. One indictee died before the transfer procedure could be completed, while the search for the remaining four continues. Substantial financial rewards have been offered for information leading to their arrest.

Out of 1,671 requests for assistance made by the Office of the Prosecutor related to the production of documents, 95 per cent have been complied with in full or in part, while the rest are still being processed.

Under the 2006 proposal on principles and modalities of access to the State archives, representatives of the Office of the Prosecutor made 20 visits to the State archives of the Republic of Serbia. All witnesses who have been asked by the Tribunal to testify have been given waivers. At least 123 individuals charged with committing criminal offences in violation of international humanitarian law by Serbian judicial authorities have been tried before the War Crimes Chamber of the District Court of Belgrade.

Serbia has set up a team to track down the ICTY fugitives. With additional assistance from representatives of the Office of the Prosecutor, the team reports regularly on its activities.

Those considerable achievements were made with a lot of hard work and dedication. Yet, the Special Prosecutor does not appear to appreciate these achievements, asserting in one report that there is a "lack of a clear concerted strategy and systematic investigative activities directed at locating and arresting fugitives". (S/2008/326, *annex II, para. 26*). Despite the 20 visits to the State archives of the Republic of Serbia referred to previously, the Office of the Prosecutor states that "no access to these archives has been granted" (*ibid., annex II, para. 22*) and that cooperation in terms of access to archives and the provision of documents is only "partially satisfactory" (*para. 20*).

Furthermore, Serbia has done its best to protect and ensure the appearance of witnesses. It has acted upon each request from the Office of the Prosecutor for witness protection. Let me point out, however, that, like any other country, Serbia cannot intervene and compel witnesses to testify voluntarily. The choice of witnesses is entirely in the hands of the Office of the Prosecutor, and the responsibility for their refusal to testify voluntarily cannot, therefore, be attributed to States.

Of much greater concern, however, is the inability — sometimes even the flat refusal — of some countries and organizations to provide witness protection and prevent the disappearance of potential witnesses. That problem is exemplified by the *Haradinaj et al.* case. One does not have to be a legal expert to realize that something is amiss in a trial if counsel for the defence of an individual accused of serious crimes can state that there was no case to answer. Accordingly, we welcome the Prosecutor's motion to appeal the decision in that case and the filing of a contempt of court procedure. It is my hope that, in the next round, the ICTY will receive appropriate assistance from the United Nations Interim Administration Mission in Kosovo (UNMIK) and other stakeholders.

We in Serbia have been appalled by the allegations in the book of the former Prosecutor, Mrs. Del Ponte, about trafficking in human organs. According to those allegations, Serbs and other non-Albanians of Kosovo and Metohija were abducted and transferred to the territory of the Republic of Albania, where they were tortured and had their vital organs removed. The Republic of Serbia has instituted legal proceedings to investigate and try the perpetrators of those heinous crimes and, to that end, has requested international assistance, including from the Secretary-General.

There is another problem highlighted by Mrs. Del Ponte's book: the disturbing and absolutely unacceptable practice of former high-ranking officials of the Office of the Prosecutor of disclosing classified information in their public statements, books or memoirs. Serbia is very concerned about that practice. It will take appropriate measures and will ask for international cooperation to redress the situation.

It is only through joint cooperation that we will be able to carry out the completion strategy by 2010. Serbia is grateful to other countries, international organizations and, most of all, the ICTY for their assistance in building its national legal capacity. That is all the more important in the light of the serious problems that the ICTY is facing with regard to staff retention. The building of national capacities, especially those of the countries in our region, may therefore be the proper way to proceed provide answers to questions related to the question of residual mechanisms.

The promotion of relations among the countries of the region, their cooperation within European processes and their integration will guarantee that they will be prepared and capable of assuming many of the ICTY functions beyond 2010.

The President: I now give the floor to Judge Pocar to respond to comments and questions raised.

Judge Pocar: I wish to thank all the members of the Security Council for the support shown for the activities of the International Criminal Tribunal for the Former Yugoslavia (ICTY). I have taken due note of all their comments and will take them into account in our deliberations in The Hague.

Let me reiterate our commitment to concluding the work of the ICTY as speedily as possible, respecting, of course, at the same time, the principle of fair trial and due process, without which international justice would be meaningless. Council members' concerns on the completion of the work have been taken into account and we will be guided by those concerns in our actions.

I would like, however, to clarify one issue that has been raised concerning the referral of cases. While we agree that referring cases is an important tool to conclude our work, I wish to stress that that is constantly the object of careful judicial decisions. We must take into account various factors, including respect for the principles of due process and fair trial when the cases are dealt with in the region, and also the decisions made by the Security Council when authorizing the referral of cases to the region. The Tribunal has been authorized to refer to the region only intermediate and low-rank accused, and we stick to that decision of our parent body. Now, we have very few cases that have not started yet, including those of the fugitives, and it is my understanding that it is the position of the Security Council that those fugitives should, when they come, be tried by our Tribunal and not be referred to domestic jurisdictions.

Referrals are also connected with capacity-building for national judiciaries, and I appreciate the positive comments that have been made on our efforts to establish a strong partnership with domestic judiciaries in order that the legacy of the Tribunal be preserved through continued domestic prosecution of the crimes. We are encouraged by those positive comments, and we will continue to work in that

direction together with the relevant international organizations.

Allow me to conclude on a more personal note. Today may be, most likely, my last appearance before the Security Council in my capacity as President of the ICTY. I wish to express my deep gratitude to the Security Council and its member States for the support they have always provided to the Tribunal and to me personally during the term of my presidency, which will expire before the next meeting of the Council on this matter. It was indeed an honour and a fascinating experience for me to participate in the Council's meetings dealing with its endeavours to establish and foster international criminal justice. Be assured that I will keep in mind everything that I learned from my participation in the activities of this high-level body and will continue to be guided by its wise comments in my daily activities in the Tribunal and perhaps elsewhere.

The President: I thank Judge Pocar for his clarifications and comments, and I thank him on behalf of the Council for his service. I now give the floor to Judge Byron to respond to comments and questions raised.

Judge Byron: I would simply like to thank speakers for their thoughtful statements. I would like to assure them that I have taken full note of the comments and the advice that has been given and will ensure that that wise counsel is considered as we proceed. These statements have demonstrated the continuing commitment of the Security Council to the high ideals of international criminal justice and the eradication of impunity.

I would also like to say that I am extremely grateful for the indications of general appreciation for our work. I would like to assure the learned representative of the United Kingdom that, when I report back to the staff of the Tribunal, it is most likely that there will be a positive impact on staff morale. I can only reiterate that the judges and staff of the International Criminal Tribunal for Rwanda will remain fully committed to doing our best to complete our mandate within a reasonable time.

I have also noted the concerns and comments on the issue of referrals. What I would simply say in that regard is that the Tribunal will continue its work in capacity-building. In that regard, I would remind members of the Council that capacity-building activities do not form part of our assessed budget and

that any assistance that is given to strengthen the voluntary trust fund will be applied in that area.

The President: I thank Judge Byron for his responses and comments. I now give the floor to Prosecutor Brammertz to respond to the comments and questions raised.

Mr. Brammertz (spoke in French): I thank those present for their comments, most of which were encouraging, some of which were critical. I would like to thank them for emphasizing the need for cooperation by the countries of the region and by the international community.

I would state once again our determination to implement the Security Council resolutions on the completion strategy. The Tribunal President referred to that. The Tribunal has referred a number of cases, under rule 11 bis, to the region, and no other referrals are being planned. In fact, as recently as last week, decisions were handed down in these cases by jurisdictions in Bosnia and Herzegovina and in Croatia.

I would like to emphasize in this context that we are in daily contact with prosecutors in the region to transfer to their files of investigative material. I should like, if I may, to encourage Council members and the entire international community to provide further support for the work of prosecutors in the region. They are doing outstanding work in political conditions that remain difficult and with resources that are often insufficient.

The President: I thank Mr. Brammertz for his clarifications and comments.

There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

May I take this opportunity, on behalf of the Security Council, to thank Judge Pocar, Judge Byron, Prosecutor Brammertz and Prosecutor Jallow for taking the time to brief the Council.

The meeting rose at 1.15 p.m.